UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD

THE COVID-19 PANDEMIC IMPACT ON MICRO, SMALL AND MEDIUM SIZED ENTERPRISES

MARKET ACCESS CHALLENGES AND COMPETITION POLICY

COVID-19 RESPONSE

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD

THE COVID-19 PANDEMIC IMPACT ON MICRO, SMALL AND MEDIUM SIZED ENTERPRISES

MARKET ACCESS CHALLENGES AND COMPETITION POLICY

COVID-19 RESPONSE

Geneva, 2022

United Nations publication issued by the United Nations Conference on Trade and Development.

UNCTAD/DITC/CLP/2021/3

eISBN: 978-92-1-001311-6

ACKNOWLEDGEMENTS

Dr. Michael Schaper, International Competition, International Trade and Small and Medium Sized Companies' expert, and former Deputy Chairman of the Australian Competition and Consumer Commission, and Ms. Rachel Burgess, Competition law academic and consultant, who have authored this report at the request of the United Nations Conference on Trade and Development (UNCTAD), would like to acknowledge the support of a few key individuals and institutions who have assisted in the preparation of this report. In particular, thanks are extended to Mr. Pierre Horna, Legal Affairs Officer, Ms. Elizabeth Gachuiri, Economic Affairs Officer from UNCTAD's Competition and Consumer Policies Branch (CCPB), who supervised the drafting, as well as Ms. Elona Lazaj, and Ms. Sophie Hunter, Project Assistants to the UNCTAD team in this project.

Thanks go to the Economic Commission for Latin America and the Caribbean, the Economic Commission for Europe, the Economic and Social Commission for Asia and the Pacific, the Economic Commission for Africa, and the Economic and Social Commission for Western Asia, whose teams provided valuable advice, inputs, data, and review of the document. Special thanks go to Mr. Kareem Hassan, Chief, United Nation-Economic Social Commission for Western Asia (UN-ESCWA) Technology Center, Dr. Nibal Idlebi, Senior Programme Management Officer, UN-ESCWA, Ms. Nathalie Khaled, Economic Affairs Officer, UN-ESCWA, Ms. Rouba Arji, Social Affairs Officer, UN-ESCWA, Mr. Salim Araji, Economic Affairs Officer, UN-ESCWA, Mr. Adel Alghaberi, Economic Affairs Officer, UN-ESCWA, Ms. Ban Pahlawan. Nadeen Suliman and Rawand Hidme, Research Assistants, UN-ESCWA Technology Center

The final version of the report benefitted from the valuable review and inputs from other UNCTAD colleagues, Mr Philippe Rudaz, Mr Marko Stanovic, Mr Selsah Pasali, SME and Entrepreneurship Branch, and Mr Alessandro Vitale and Ms Sabrina Ielmoli, E-Commerce Branch; and from the overall guidance and revision of Ms. Teresa Moreira, Head, Competition and Consumer Policies Branch, and the contribution of Mr Juan Luis Crucelegui, Chief of Capacity Building, CCPB, UNCTAD. Ms. Jacqueline Bouvier assisted in its formatting and Ms. Magali Studer was responsible for the cover.

*This report is prepared under the United Nations Development Account (DA) response to COVID-19 project on Global Initiative towards post-Covid-19 Resurgence of the MSME sector (Project 2023W): Sector Component 2: Cluster F on Access to Markets.

TABLE OF CONTENTS

ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations.
ECA	United Nations Economic Commission for Africa.
ECE	United Nations Economic Commission for Europe.
ECLAC	United Nations Economic Commission for Latin America and the Caribbean.
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific.
ESCWA	United Nations Economic and Social Commission for Western Asia.
GVC	Global Value Chain/global supply chain.
IMF	International Monetary Fund.
MNC	Multinational Corporation.
MSME	Micro-, Small and Medium-sized Enterprise.
OECD	Organization for Economic Co-operation and Development.
SDG	Sustainable Development Goals.
SME	Small and Medium-sized Enterprise. Usually taken to also include micro-sized firms.
UNCTAD	United Nations Conference on Trade and Development.
VAT	Value Added Tax.
WTO	World Trade Organization.

EXECUTIVE SUMMARY

This report provides a snapshot of the current competition and market access challenges being faced by Micro-, Small and Medium-sized Enterprises (MSMEs) around the world as they seek to deal with the impact of COVID-19 on their operations. It focuses on the competition-related challenges caused by the pandemic, ability to access existing and new markets, regulatory responses to the situation that especially affect MSMEs, and related observable trends relevant to small and medium enterprises. It concludes with a few recommendations for future action by national governments and international organizations.

Whilst examples are provided from a wide range of different nations around the world, the principal focus is on developing countries and their MSME populations.

Many MSMEs today are on the cusp of closure or have already been forced to exit. Many those still trading remain highly vulnerable. Surviving firms will also have to deal with a changed business landscape in the future, with many patterns of sales, distribution and consumer behaviour having been substantially and permanently altered.

Two intertwined critical issues in dealing with the current pandemic, and in the eventual recovery of national economies from it, are that of market access and competition policy for MSMEs. Countries are taking a variety of different responses to these two issues. In the competition arena, enforcers exceptionally relaxed a few anti-competitive provisions, and many are now focusing for the first time on the impact these decisions might have on MSMEs. A few different measures are being taken to assist MSMEs to retain or gain access to markets and consumers.

Six principal trends can be identified that are common across most nations: governments are placing a priority on propping up existing firms; substantially more co-ordinated economic activity is being approved by competition authorities; market access is being hindered by inter- and intra-national restrictions on the movement of people, goods and services; MSMEs are moving online and seeking to enhance their ability to access markets using digital technology; more competition authorities are working directly with MSME agencies and MSME associations; and informal sector MSMEs are increasingly being recognised as an important factor in both competition and market access policy considerations.

Some recommendations are made for future action by governments and agencies of individual member states, in some cases with the support of international organizations. These are a mixture of possible regulatory measures, greater engagement with MSME representative organisations, training and capacity-building activities, and other actions. Whilst some are focused on competition issues, steps are also suggested to improve the ability of MSMEs to access both international and domestic markets.

CHAPTER 1: INTRODUCTION

As in almost all other spheres of economic life, COVID-19 has created immediate and significant changes to how MSMEs do business. Small businesses around the world have been abruptly confronted with changed consumption patterns, demand, product distribution and consumer behaviour. Many firms have lost access both to front-line customers, and their ability to source raw materials and inputs, as well as to export. In many cases, lockdowns and other movement restrictions have prevented key personnel and staff from working. Job losses elsewhere in the economy have also resulted in a drastic fall in demand. Sales have declined. Many other businesses in supply chains have ceased operating. Uncertainty about the future course of the pandemic has led many individuals and businesses to spend more cautiously, dampening further the demand for many of the goods and services produced or supplied by MSMEs.

The impact is being felt not only by individual firms, but also within national economies and worldwide. The pandemic has already resulted in global disruptions of trade and travel across borders. Supply chains have been severely disrupted as China, the European Union, and the United States - the largest exporters and the biggest players in global value chains - have closed some or all of their cross-border trade, or else slowed it down. This has had major repercussions on many MSMEs, both as exporters and as users of imported inputs.[1]

Around the world, many MSMEs have already ceased trading, and many more are either on the cusp of closure or remain highly vulnerable. Surviving firms will also have to deal with a

changed business landscape in future, with many old patterns of sales, distribution and consumption having been substantially and permanently altered. These changes pose challenges for the owner-managers of such enterprises and these problems are particularly acute in less developed economies with many micro and small businesses.

There is also a degree of long-term uncertainty about what happens next, which is impacting both firms and consumers. Experience to date suggests that when lockdowns end, the 'recovery' phase that follows may lead to a short-term spike in economic activity in the weeks following deconfinement, but the buying spree is unlikely to be sustained. Many pre-existing patterns of production and demand, and of delivery and consumer preference, have changed in ways which cannot yet be fully measured. Recovery does not mean a resumption of a pre-existing normal phase: it may mean a 'new normal' that is easier for some MSMEs and harder for others.

The overall impact of COVID-19 on the MSME sector is somewhat difficult to assess, as it fluctuates based on the rate of infection and patient recovery, the current movement restrictions put in place in various regions, and of policy responses in different countries. Comprehensive real-time global data on the state of the MSME sector is hard to come by, but the COVID-19 crisis has sparked interest and incentivized such investigations on MSMEs.[2]

Policy responses from many arms of government, dealing with diverse issues that affect MSMEs, are needed. Many of these are already underway. However, policy makers must ensure that the two intertwined critical issues of competition policy and market access for MSMEs are not overlooked.

Competition policy and market access

Competition policy refers to the mix of policies, laws, sectoral related regulations, and enforcement activities that are employed by a country to govern the process of competition between firms.[3] It can take various forms but is generally focused on ensuring that markets can operate in such a way so as to ensure a level playing field for all with, ultimately, a net benefit to both society and the economy. A competition authority is generally tasked with the implementation and enforcement of a national or regional competition law.

Market access refers to the ability of a business to enter and operate within a domestic or international marketplace. The capacity of a business to freely offer its goods or services to consumers can be affected by a wide range of factors, including general and industry-specific policies enacted by a government, by transnational trading regimes and the behaviour of other firms. Without access to existing or potential new customers, no firm can survive. It is therefore an important issue for competition authorities and policymakers.

Some competition authorities have responded to COVID-19 by adapting the way in which they administer and enforce their laws, the exemptions they grant, and the business behaviour which they authorise. Competition authorities in numerous countries have been exceptionally relaxing the application of some prohibitions., and some of these decisions might have on MSMEs.[4]

Market access issues are also being comprehensively addressed through a variety of different measures. These include public financial support (e.g., state aid) mainly granted to alleviate the lack of liquidity and to maintain jobs in the face of the drastic reduction in demand in many sectors of the economy (hospitality, tourism, transport, retail trade, automotive industry) made up of MSMEs; support to begin trading online or expand their digital activities; permitted travel zones between areas with low COVID-19 rates; and business planning and strategic skills development.[5]

The interaction of competition policy and market access will play an essential role in ensuring the survival of MSMEs, both during and after COVID-19. There is much more to do in these policies and areas, and this report makes a few suggestions for further action in both fields.

The role of the United Nations

This report is part of an overall United Nations project and its stated goal: to provide policy recommendations to address specific challenges faced by MSMEs during the COVID-19 crisis, through the use of competition law and policy. This project is part of the general strategic plan of the United Nations developed in response to a call by the General Assembly to coordinate a global response to COVID-19 that addresses its social, economic, and financial impacts through a dedicated taskforce (Resolution 74/27). The objective of this cluster (Access to Markets) is to identify barriers to competitiveness and market access faced by MSMEs, especially in the developing world.

The United Nations Conference on Trade and Development (UNCTAD) has been the focal point for work on competition law and policy within the United Nations system since 1980. Its primary focus is to address the needs of developing countries as well as economies in transition in designing and implementing competition law and policy to achieve inclusive economic growth and sustainable development. The mandate of UNCTAD in this field has been set by the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (UN Set), approved by the United Nations General Assembly 35/63, of 5 December 1980.[6] The objectives of the UN Set consist of promoting benefits which arise from competition law and policy and strengthening the enforcement against anticompetitive practices worldwide. The UN Set is the only multilaterally agreed instrument on competition that provides a set of recommendations for the control of anti-competitive practices by member States, notwithstanding their level of development; that recognizes the development dimension of competition law and policy and the special circumstances of developing countries; and establishes a framework for international cooperation and the exchange of best practices.

Each year, an UNCTAD Intergovernmental Group of Experts on Competition Law and Policy meets to follow the application and implementation of the UN set, and every five years since the adoption of the United Nations Set, a Review Conference has been held, providing an occasion to discuss and renew UNCTAD's mandate through the consultations between heads of competition authorities and senior officials of developed and developing countries, including least developed countries (LDCs) and economies in transition.

Under the UN Set, UNCTAD also provides technical assistance and capacity-building for interested member States so that they are better equipped to use competition law and policy for development.

Overview of the report

This paper provides a snapshot of the current challenges being faced by MSMEs around the world as they seek to deal with the impact of COVID-19 on their operations. It focuses on the competition and market access-related issues caused by the pandemic, such as the ability of MSMEs to access existing and new markets, competition authorities' responses to the pandemic that especially affect MSMEs, and observable trends in the sector. Whilst examples are provided from a wide range of different nations around the world, the principal focus is on developing countries and their MSME populations.

Chapter 2 provides a brief overview of the nature of small business. What is an MSME, and how does it differ from a larger enterprise? What are the key challenges and opportunities faced by MSMEs? How are such enterprises managed and operated, and how do government agencies and multilateral bodies interact with MSMEs? It also discusses the role of industry associations and highlights the particular importance of informal MSMEs.

In Chapter 3, the interaction between MSMEs, competition law and policy in general is examined. How does competition law and policy impact on MSMEs, and what special provisions (if any) do various countries dispose of to take into account the different nature of smaller businesses?

Chapter 4 then examines the impact of COVID-19 on the MSME sector to date, using a range of recently collected statistics and data to gauge what has been happening to smaller firms as they seek to survive, and to compete effectively in the marketplace. The range of government support measures to assist the sector is discussed, both at a general level and especially in regard to competition and market access-related issues.

Chapter 5 distils some of the previous discussion into several broad themes and trends that appear to be emerging globally as MSMEs, their representative associations, governments and competition authorities deal with COVID-19 and associated issues.

The report concludes in Chapter 6 with some recommendations so that member States' governments and, in particular, competition authorities, SMEs public bodies and other relevant governmental institutions can undertake to help MSMEs adjust to the new economic model confronting all enterprises. Further, what measures can be taken by international organizations support these efforts. These principally focus on providing MSMEs with support to access new markets, assistance to help them operate more effectively in the digital economy, building institutional capacity through training and education that will improve the level of understanding of policymakers about the MSME sector, and on improving the capacity of policymakers to engage effectively with MSME associations and representative bodies.

CHAPTER 2: UNDERSTANDING THE NATURE OF MSMES

2.1 DEFINITIONS AND SIZE

MSMEs are the most common form of business enterprise found throughout the world, yet their key characteristics are not well understood.

What constitutes an MSME? In general, there are a number of common characteristics of such enterprises: they are independent entities, and not part of a larger corporation; are typically founded and managed by the owners, who also bear most (or all) of the risk involved in the venture; they have a comparatively small number of employees (if any); usually only produce or sell a limited range of goods and services; have limited market shares and a small customer base; and have limited access to support resources such as finance, external advisers, government assistance and the like.

There is no single, globally accepted definition of MSMEs, and their characterization can vary significantly between nations. Some countries use a singular quantitative feature, such as the number of employees or annual turnover of an enterprise. Others use more complex permutations, including industry sector, capitalisation, asset base, staff and/or revenue. The issue is further confused by the tendency of different agencies even within the same country to use different criteria – a taxation agency, for example, will often focus on the revenue or profitability of a firm when determining whether it is small, whilst an employment ministry frequently measures firms by employee numbers. Some jurisdictions include the self-employed, whilst others exclude them; likewise, informal businesses are measured in some nations, but not in others.

Terminology also varies. In some nations, such entities are referred to as "MSMEs"; in other jurisdictions, the more commonly used term is "Small and Medium-sized Enterprise" (SME); whilst in yet others the simple term "small business" is employed. Throughout this report, the terms are used interchangeably.

Unsurprisingly then, the classification of MSMEs varies across countries according to the method used. A selection of official definitions in shown in Table 2.1, which indicates the great range of variables that are used when attempting to define this type of economic entity.

The lack of a uniform definition of an MSME also means precise measurements of the global population of MSMEs is hard to determine. These figures can vary significantly depending on the definition employed, the efficiency of data collection in different nations, and whether informal enterprises are included in the count.

Generally, it is reckoned that MSMEs represent about 90 per cent of businesses and provide more than 50 per cent of employment worldwide.[7] Their share of the total number of firms, of employment and of GDP can vary widely across countries and regions. Among APEC economies, for example, they account for over 95 per cent of enterprises on average and, in some of its member countries, up to 99 per cent of firms and over 80 per cent of total employment.[8] MSMEs account for more than 90 per cent of businesses on African continent and are the primary drivers of innovation.[9] Micro, small and medium enterprises are central actors in the development of the Latin American region, as they account for more than 99 per cent of business and employ around 67 per cent of the workforce.[10]

Amongst WTO countries, MSMEs account for 95 per cent of all firms, employ 60 per cent of the total workforce and provide approximately 50 per cent of value add in member economies.[11] In the Arab world, MSMEs are estimated to account for over 90 per cent of all businesses.[12]

Whilst found in all areas of economic activity, MSMEs tend to be most numerous in areas that are labour-intensive, are primarily based around small markets, where economies of scale do not provide major benefits, or where larger corporations are absent from the marketplace. These include (but are not limited to) such industry sectors as personal services; retail and wholesale trade; small-scale agriculture; travel, tourism, and hospitality; food services; and other professional services.

Table 2.1: Overview of some MSME definitions to demonstrate their plurality

Bahrain[13]	Micro: Less than 10 employees and annual turnover under Bahraini dinar (BD)100,000. Small: 11-50 employees (or up to 100 for the construction sector) and annual turnover of BD100,000-1M. Medium: 51-250 employees (up to 400 for construction sector) and annual turnover of BD1m-5m. Different criteria are applied to the manufacturing segment, where small companies are classified as those with a capital investment of BD20,000-500,000, and medium companies as those with BD500,000-3m.
Georgia[14]	Small: average annual employees do not exceed 50 persons and average annual turnover Georgian lari (GEL) 12 million. Medium: 50-249 average annual employees and average annual turnover GEL 12-60 million.
India[15]	Manufacturing sector – measured by investment in plant & machinery Micro: Does not exceed twenty-five lakh rupees Small: More than twenty-five lakh rupees but does not exceed five crore rupees Medium: More than five crore rupees but does not exceed ten crore rupees Service sector – measured by investment in equipment Micro: Does not exceed ten lakh rupees Small: More than ten lakh rupees but does not exceed two crore rupees Medium: More than two crore rupees but does not exceed five core rupees
Malaysia[16]	Small – manufacturing sector: Sales turnover from Malaysian ringgit (RM) 300,000 to less than RM15 million OR full-time employees from 5 to less than 75 Medium – manufacturing sector: Sales turnover from RM15 million to not exceeding RM50 million OR full-time employees from 75 to not exceeding 200 Small – services & other sectors: Sales turnover from RM300,000 to less than RM3 million OR full-time employees from 5 to less than 30 Medium – services & other sectors: Sales turnover from RM3 million to not exceeding RM20 million OR full-time employees from 30 to not exceeding 75 Micro: any firm falling below either of the above-given "small" definitions
Peru[17]	Micro: 10 or less employees and annual sales limit of 150 tax units. Small: 1-100 employees and sales limit of 1,700 tax units. Medium: annual sales limit of 2,300 tax units.
Saudi Arabia[18]	Any enterprise with an independent commercial registration that has less than 249 employees, and less than Saudi riyal (SAR) 200 million as revenue.
South Africa[19]	A total of 33 different definitions of micro-, small- and medium, based on a combination of turnover and employee numbers

2.2 KEY CHARACTERISTICS

As mentioned in the preceding section, MSMEs can be differentiated from larger firms not only by their size, but also by some other, more qualitative characteristics.

Smallness is central to their existence. In most cases this means that the firm is limited in its ability to survive and grow; it also restricts the capacity of MSMEs to access and utilise many of the tools that larger firms have. A small business is not simply a large corporation shrunken down in size; it is indeed a venture that operates on a very different basis to a large domestic competitor or multinational corporation (MNC).

Table 2.2: Common Differences Between MSMEs and Large Firms[20]

	SMEs	Large Firms
Number of business establishments	Single	Multiple
Legal structure	Most commonly sole trader, partnership, or small company	Company structure
Geographical distribution	Limited	Limited or wide
Product/service range	Limited, specialised	Limited or wide
Market share	Limited	Significant
Customer base	Small	Numerous
Likelihood of business failure/exit	High	Low
Compliance cost burden	Proportionately high	Proportionately low
Knowledge of, and to access to, regulatory information	Limited; ad hoc	Sophisticated; extensive
Access to technical experts and training capabilities	Limited	High
Knowledge of, and to access to, marketplace information	Limited; ad hoc	Sophisticated; extensive
Ability to access established supply sources	Difficult	Easy
Level of financial resources	Typically, small and limited	Substantial
Use of external legal and economic advisers	Limited; ad hoc	Systematic; structured

The consequence of these features is that many MSMEs are particularly vulnerable to exogenous shocks. Limited turnover and marginal profitability, for example, can mean that many firms have not accumulated sufficient financial reserves that might give them the capacity to fall back on savings if they need to weather a sudden drop in income. As a group, MSME have a low survival rate, which can easily be threatened by sudden unexpected shocks or changes in consumer behaviour; not surprisingly, they also typically have a much shorter lifespan than their larger competitors.

2.3 MARKET ACCESS

As Table 2.2 above indicates, MSMEs also face particular challenges in regard to their markets. No business can survive without a viable source of purchasers of its good or services, and whilst many small firms have made a virtue of their size by producing niche offerings that larger corporations cannot or will not supply, others suffer from their limited scale and size.

MSMEs typically offer only a limited range of goods and services, to a small group of customers, which can make them overly reliant on continued access to those buyers. For most MSMEs, these client customers are usually located close by in the same domestic national economy. Only a relatively small proportion of MSMEs trade internationally, and less than 15 per cent of all firms are actively engaged in export-related trade.[21] When access to these (generally domestic) consumers is foreclosed, many MSMEs can lose most or all of their income. In many industry sectors where MSMEs are numerous (such as personal services, allied health services, travel, and tourism) these consumers need to be physically close to the business; restricting physical movement can effective deny MSMEs access to those consumer markets. In contrast, larger firms often sell a much wider range of products and services, to many more varied purchasers, are more likely to have international as well as domestic customers, and can survive localised shutdowns or consumer restrictions more easily.

2.4 REGULATORY KNOWLEDGE AND COMPLIANCE

An emerging issue in many MSME studies has been a recognition that many smaller firms face the burden of complying with competition and other laws but have only a limited understanding of what is required and a restricted capacity to do so. Recent research into information-gathering behaviour amongst MSMEs indicates that most such matters are still managed personally by the business owner-manager, who deals with regulatory compliance as just one of many issues in their daily work. Few firms, except medium-sized enterprises with more funds, rely on legal or compliance specialists. Levels of knowledge about legal frameworks is rudimentary, and compliance is typically done on a "just in time" basis.[22]

In the competition law sphere, a few studies have shown that most MSMEs have very limited knowledge of both their rights and obligations under relevant laws, and even less inclination to use them to their benefit, unless assisted by a trade association or similar body.[23]

This also applies when an MSME is the victim of a breach of a competition law by another firm. Many firms are unaware of such breaches; many have no knowledge of the remedies that are available to them; and even where MSMEs realize, they fail to have the financial and time resources to access justice.[24] Consequently, many MSMEs tend to suffer in silence. The result is, as one national agency has noted, that in most competition issues small firms are effectively being denied access to justice.[25]

2.5 INTERACTION WITH PUBLIC AGENCIES AND BUSINESS ASSOCIATIONS

Small businesses typically also have limited interaction with government. Indeed, firm size shows marked correlation with propensity to interact with government agencies, economic development bodies, competition authorities and policymakers. Large corporation are far more likely to engage with and utilise such services than small firms. Moreover, the smaller the enterprise, the lower the likelihood that it will also receive assistance and support from government.[26]

Many MSME operators instead show a marked preference to rely on business associations, family, friends, and trusted business peers as their principal sources of assistance and information, rather than government bodies.[27]

In this context, the role of business associations becomes especially significant. Business owner-operators are more likely to also place their trust in seeking information from bodies such as local chambers of commerce, professional associations, industry trade groups and the like. These are often seen as trusted sources of advice and information, rather than government or other public entities. These associations can play an important intermediary role in ensuring that information flows between the public and private sectors: they can help MSMEs access information about government support programs, whilst at the same time providing valuable feedback to policymakers about the relative effectiveness of their assistance measures.[28]

They also have an impact on competition policy and law. Trade associations can also play a key role in developing and embedding a culture of competition law compliance within the business sector. They can do this in several ways, such as by explicitly embedding competition compliance in their own internal codes of conduct. They can also disseminate information on issues related to cartels and collusive conduct, provide training and general advice on how to comply with the law, help their members establish internal compliance programmes, and assist firms to identify and avoid illegal collusive conduct.[29] Caution, however, must be exercised by business associations to ensure that they do not engage in collusion through the sharing of sensitive commercial information, establishing norms and standards aimed at excluding non-members, or by recommending (fixing) prices and fees. There have been numerous cases in different countries of illegal anti-competitive behaviour operating under the aegis of business associations. For example, output-restricting cartels in the poultry meat market (Chile and Turkey), price-fixing and the imposition of "route entry charges" in the Kenyan transport sector, and price-fixing amongst Malaysian floriculturists.[30]

2.6 INFORMAL SECTOR MSMES

One of the other major features of the MSME sector is the high proportion of firms which operate within the so-called informal sector or informal economy – that is, outside the normal formal legal requirements of governments. Globally, it is estimated that as many as 80 per cent of all business enterprises are informal enterprises. While the figure is low amongst developed countries (55.7 per cent), it is high within emerging and developing nations (82.5 per cent overall), with Africa (92.4 per cent) and the Arab states (90.8 per cent) showing a particularly high proportion of informal enterprises.[31]

Informal enterprises are those that typically are not registered with any government agency or regulatory body which other firms are required to do. They often do not have a clear legal structure or existence as such, are often unknown to authorities, and frequently do not comply with any applicable legislative and regulatory frameworks, including the laws governing business operations and competition.

Informal enterprises tend to be greater in number in nations where the rule of law is weak or absent; where there is a high level of corruption, or where trust in the state is low; where opportunities to participate in the formal sector (either as an employee or as a business) are limited; and where there are large numbers of disadvantaged persons with limited capacity to operate in the formal economy (this latter group are sometimes referred to as "subsistence entrepreneurs"[32]). There are marked differences in the patterns of informality: in the Asia-Pacific region, for example, the level has been decreasing over time, whilst in the Arab world it has grown in recent years (with countries such as Morocco and Tunisia experiencing notable increases).[33]

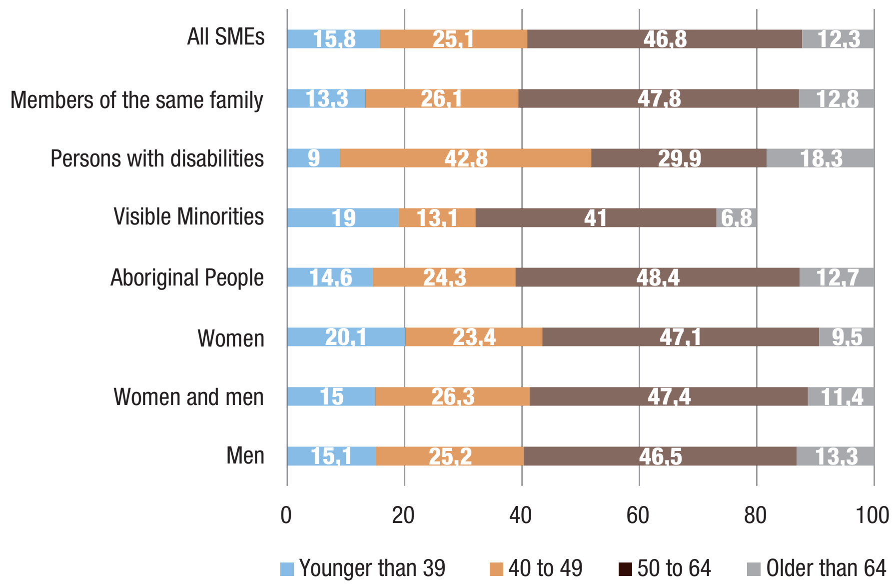
2.7 SUSTAINABLE DEVELOPMENT GOALS

Apart from their economic significance, MSMEs are also important to nations for a variety of other reasons. A vibrant MSME sector promotes the broadening of wealth, economic opportunities, skills, and political power, and reduces the concentration of socio-economic elites and decision-making. They provide opportunities to many disadvantaged and vulnerable groups, such as women, and those who otherwise find themselves excluded from participation in the formal sector. So-called "necessity entrepreneurship," wherein informal self-employment projects provide work that is not otherwise available, is a common driver of small business creation across the developing world, as well as a key source of employment and wealth creation.[34]

For example, MSMEs often provide opportunities for women to overcome many of the challenges they have traditionally faced when attempting to enter and stay in the labour market, such as flexibility of working. According to a study made of the demographics of MSMEs in Sri Lanka, the majority of the entrepreneurs who fall in the age category of 35 to 49 are young and MSMEs are male dominated in comparison to female entrepreneurs.[35] MSMEs also allow young entrepreneurs to flourish by allowing them to operate independently of the constraints of an existing business and are also increasingly becoming an opportunity for mature-age workers who wish to remain in the workforce but face varying forms of age-based employment discrimination (see Figure 1).

MSMEs development and entrepreneurship can contribute to implementation of the entire Agenda 2030.[36] MSMEs are important in at least three of the Agenda 2030 Sustainable Development

Figure 1: Age-based employment discrimination - Age of primary decision maker by majority ownership type



Goals (SDGs): SDG 1 ("End poverty in all its forms everywhere"); SDG 8 ("Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all"); and SDG 10 ("Reduce inequality within and among countries"). Individual MSMEs have the potential, through their business practices, to contribute to the SDG 1 using new business models/solutions. The ambitious push for eliminating poverty through the SDGs offers a new range of business models and opportunities that are being tapped by the private sector, including MSMEs. To achieve SDG 8, MSMEs create jobs and have the potential for promoting decent work and entrepreneurship. MSMEs are relevant actors to achieve SDG 10 because MSMEs promote economic inclusion and have the potential to regenerate under-served geographic areas. Also, increasing productivity of MSMEs can help bridge wage inequality. [37]

The role of competition law and policy in supporting sustainability is itself becoming a topic of wide interest in international fora which aim to address potential conflicts between competition and sustainability goals.[38] Since SMEs are highly prevalent in the economies of developing countries, the current push towards sustainable economic growth, notably in the context of COVID-19, bears relevance to SMEs to enhance their competitiveness post crisis. Initial research suggests that the tools already available to competition authorities are adequate to ensure competition policy and law does not stand in the way of agreements designed to achieve sustainability[39].

CHAPTER 3: COMPETITION LAW AND MARKET ACCESS FOR MSMES PRIOR TO COVID-19

This chapter considers the features of competition law and policy that existed prior to the pandemic, including those related to market access, for MSMEs. It also discusses the challenges still to be overcome to enable MSMEs to fully benefit from this important policy area.

3.1 COMPETITION LAW AND MARKET ACCESS IN DEVELOPING ECONOMIES

Competition policy and law strives to achieve a level playing field for all firms – large and small – with the generally accepted ultimate goal of achieving consumer welfare. In developing economies, competition laws often have additional policy objectives that include enhancing economic efficiency,[40] promoting economic development,[41] expanding entrepreneurship[42] and specifically promoting or protecting MSMEs.[43]

Competition law and policy can ensure that markets function competitively and are conducive to business growth, including that of MSMEs, particularly when they are enforced by independent competition authorities. The achievement of a level playing field is an important factor in facilitating market access. However, market access for MSMEs into both domestic and international markets can be hampered by institutional and legal hurdles (such as particular registration or licensing requirements), specific industrial policies and by a lack of awareness, promotion and implementation of competition policies and laws.

There is no 'one size fits all' competition law and the policy objectives of developing countries in this area are substantially different to those in developed economies.[44] Additionally, although competition law and policy is well established in developed economies, it is a relatively new policy in developing economies. This can have its advantages: for example, when there is no pre-existing jurisprudence, national laws can be developed in a way that best suits the needs of that particular economy. While many developed economies focus on considerations of efficiency in enforcing their competition regimes, young agencies of developing countries have more flexibility to have regard broader societal challenges.[45] This could include ensuring that competition policy and law is inclusive of MSMEs.

There are three internationally recognised pillars of competition law, each of which can play a role in helping MSMEs operate effectively in the marketplace:

(i) prohibitions against anti-competitive agreements (such as bid rigging in public procurement);

(ii) prohibitions against abuse of a dominant market position (such as strategic withholding of supplies); and

(iii) the prevention of market distortions created by anti-competitive mergers and acquisitions (such as those that lead to large entities with significant market power).

Anti-competitive practices are responsible for causing appreciable harm in developing economies. A study[46] based on more than 200 'hardcore' cartels across more than 20 developing countries during the period 1995 to 2013 revealed that affected sales as a percentage of GDP reached up to 6.38 per cent (South Africa) while the harm in terms of excess profits resulting from cartel conduct reached almost 1 per cent of GDP (Republic of Korea and South Africa). Cartels were investigated across an array of industries—from fruit processing through security services to cargo freight in Africa;[47] chocolate, milk, and rice to construction in South America; and cement, yeast, and newspapers in the Middle East.[48]

Other distortionary practices have also been widely documented. In the telecommunications sector, for example, these include exclusive agreements and excessive pricing by Kenya's Safaricom, bundling by Mauritius Telecom and abuse of dominant position by South Africa's Telkom.

In developing countries, markets can be particularly vulnerable to anti-competitive and abusive practices arising naturally from local market structures and conditions. These typically include inadequate business infrastructure (such as poor distribution channels, inefficient transport and logistics, and lack of equality in access to essential inputs), regulatory constraints, pronounced information asymmetries in product and credit markets, and lack of public transparency. Together, these factors have a particularly large impact on MSMEs in both the formal and informal sectors.

Visibility of market access issues for MSMEs can also be difficult in developing economies as significant economic activity remains informal. The informality makes regulation and monitoring harder, while corruption weakens the enforcement of competition law.

Another issue is lack of regulatory experience and knowledge. In Africa, only 23 countries (less than half of all African countries) have a competition law in force and a functional competition authority.[49] In the ASEAN region, 6 out of the existing 9 competition authorities were only formed in the last 5 years. Young competition regimes face challenges that may influence the attention granted to SMEs. To mention a few: rudimentary competition culture among the business community, limited advocacy to the government, media, and general public; lack of dedicated and trained staff in small business;[50] scant experience of dealing with jurisdictional overlap involving sector regulators or other public agencies having mandates on SMEs, etc.[51]

Some regional trends are also apparent. In Africa, for example, there is a growing trend towards consolidation[52] in domestic markets, resulting from increased diversification and vertical integration among large corporate groups in developing countries. This raises concerns of potential market concentration, and future market access issues that may jeopardise the economic survival of local MSMEs.

In some parts of the globe, the existence of state-owned or pre-existing monopolies and oligopolies presents particular obstacles to market access. Where SOEs continue to exist, the competition law may be inapplicable either to the SOE or to the sectors where SOEs are prevalent which may interfere with SMEs development. This seems to be a more marked issue in developing countries.[53] Where SOEs have been privatised, their market power remains due to the presence of significant network effects and existing vertical integration, making entry into these markets difficult. Market access for MSMEs can be improved by the introduction of active policies that encourage existing or former SOEs to work with MSMEs. For instance, SOEs in the banking industry can prioritize lending to SMEs (Sri Lanka); deal with SMEs' nonperforming loans (Russian Federation);[54] draft supplier skills-development programmes to identify SME suppliers and provide coaching and assistance; and devising procurement rules that benefit SMEs (South Africa)[55]

The challenge for competition authorities in developing countries is to distinguish between those practices that should be prohibited from those that can be allowed on the grounds that they have pro-competitive effects outweighing its restrictions on competition or that they may contribute to a public interest goal : economic efficiency, technological advancement, and indeed enhanced competition, ultimately.[56] This assessment is difficult for new agencies as it requires a detailed economic analysis on a case by case basis.

3.2. COMPETITION LAW: APPLICATION TO MSMES

Competition policies around the world take various approaches to the question of whether competition laws should apply to MSMEs. The approaches broadly fall into three categories: blanket exemptions; application of thresholds; and individual exemptions or authorisation of conduct.

The first category provides blanket exemptions for agreements or conduct involving or benefiting MSMEs. For example, Indonesia's competition law completely exempts "entrepreneurs categorised as engaging in small scale business", while in China, exemption is granted to agreements entered into or implemented which have as an objective "improving operational efficiency for SMEs".[57]

Some competition law jurisdictions have made use of secondary legislation or guidelines to provide *de minimis* or 'safe harbour' thresholds for agreements that are unlikely to affect competition in the market. Generally, these thresholds do not apply to hardcore (cartel) restrictions. This is useful tool provides businesses with legal certainty, the means to conduct self-assessment and to devise internal voluntary compliance practices. A case in point is Japan's *Small and Medium-Sized Enterprise Cooperatives Act*, which focuses on small and medium sized commercial, industrial, mining and transport businesses. It prescribes a "safe harbour" from the application of the *Antimonopoly Act* to juridical persons based on the size of the business (assets/capital and number of employees). Likewise, Malaysia and Singapore exclude from the application of competition law agreements (other than cartels) between entities that have a combined market share of less than 20 per cent (for agreements between competitors) and less than 25 per cent market share each (for agreements between non-competitors).[58] This is similar to the European Commission *de* *minimis* notice which applies 10 per cent and 15 per cent market share thresholds, respectively.[59] These market share thresholds are set on the basis that agreements between these players will not have a significant impact on competition. Incidentally, however, they provide MSMEs an almost *de-facto* exemption through self-assessment. The defining feature of MSMEs is *smallness,* and their operations cannot amount to significant market shares that allows to behave independently of consumers and suppliers in the market.

In other jurisdictions, individual exemptions or authorisations may be granted that exclude agreements or conduct between MSMEs which result in economic benefits that outweigh any anti-competitive harm. In the United Kingdom, businesses are required to satisfy themselves that the agreement meets the conditions for exemption.[60] In contrast, the Australian regime allows parties to apply to the ACCC for authorisation of potentially anticompetitive conduct on the grounds that any detrimental effect on competition is outweighed by the public benefit.[61]

Looking at India, merger regulation under the Competition Act 2002 ensures conducive operating conditions for SMEs by regulating mergers that would create or strengthen market power and by excluding SMEs from regulation through high thresholds.[62] In South Africa, MSMEs are also afforded special treatment under the exemption provisions. If an MSME perceives that it is engaged in a prohibited practice, it can apply for exemption from being investigated based on the grounds that the objective of the practice is to promote the ability of small businesses or firms controlled by previously disadvantaged persons, to become competitive.[63]

The case of mergers

The requirement for mergers involving MSMEs to be assessed by competition authorities varies around the world. Some jurisdictions have compulsory merger regimes, under which all qualifying mergers must be notified to the competition authority for review. The requirement to notify usually depends on such factors as the size of the parties to the merger, which is often determined on the basis of sales or revenue turnover in the preceding 12 months. Where compulsory notification is required and notification thresholds exist, mergers involving MSMEs usually fall outside the regime. By providing both small and medium-sized enterprises and large companies with a distribution channel, platforms level the playing field between them and facilitate the same exposure to potential customers for both, thereby "democratizing markets"[64] with potential threats to innovative SMEs. This can give rise to particular issues in digital markets where small strategic acquisitions by larger entities can have significant impacts on competition in the market but may not be subject to scrutiny. For example, an incumbent digital platform might acquire, through merger, the technology of a nascent or potential competitor because the technology complements or enhances the incumbent's own technology. In August 2019, the DOJ challenged Sabre Corporation's proposed acquisition of Farelogix under Section 7.19 The DOJ alleged that the transaction would allow Sabre, the largest airline booking services provider in the United States, to eliminate a disruptive competitor that had introduced new technology to the travel industry and that was poised to grow significantly.[65]

Where voluntary merger regimes exist, there is no obligation to notify the relevant competition authority of the merger. However, authorities generally still have a right to investigate mergers they become aware of. Investigation may be warranted where the acquisition of a MSME represents the removal of a maverick firm. In some jurisdictions, a hybrid approach is taken. For example, the *Law on Business Competition* of the Lao People's Democratic Republic exempts SMEs from the requirement to lodge documentation, but the competition authority must still be notified of the combination. Some countries also place an emphasis on MSME education in this area: South Africa, for example, has issued guidelines that deal specifically with the requirements for notification of small mergers.[66]

When assessing a merger to determine its effect on competition, some jurisdictions allow for public interest factors to be taken into account. In South Africa, the public interest test includes an assessment of the impact of the merger on a particular industrial sector or region; employment; the ability of *small businesses* or firms controlled by historically disadvantaged persons to become competitive; and the ability of national industries to compete internationally.[67] Recent regulatory reform in Indonesia has introduced additional scope for assessment of mergers encompassing consideration of "*protection of small and medium enterprises*".[68]

3.3 COMPETITION LAW: CHALLENGES FOR MSMES

The inherent characteristics of MSMEs are limited market share, few financial resources, smaller customer numbers, and restricted product and market ranges. MSMEs also face unfair competition from informal firms, particularly in developing economies. These unique problems have led to a growing awareness that competition law and policy cannot always be uniformly applied internationally. Additionally, some commentators have suggested that competition frameworks and enforcement need to take into account the differences between large firms and MSMEs and adjust their processes accordingly.[69]

Competition law and policy is a complex area, requiring an understanding of both law and economics. In addition to the difficulties in advocating laws to this group, its complexity gives rise to real risks of MSMEs failing to properly understand its application, even where a basic awareness of the law exists. For example, a 2014 study in Malaysia revealed that only 27 per cent of the MSMEs surveyed were aware of the competition law; medium-sized businesses had more knowledge (36 per cent), compared to small (27 per cent) and micro (21 per cent).[70] The Viet Nam Competition Authority has also noted in some of its annual eports that national levels of awareness of the law are low and has previously identified improved awareness as a priority action for the agency.[71]

For developing economies where competition law and policy may be new, trade associations have a pivotal role to play, both educating their MSMEs on the existence of competition law and assisting with compliance.[72] Yet many associations can themselves also fall foul of the law because MSMEs can unknowingly become part of cartels while participating in trade association activity.

Although there is a risk of cartel-like behaviour for unknowing or unsuspecting MSMEs, *lawful* collaboration can result in improved access to markets. Empirical research finds that horizontal ties enable collective resource use as well as joint product innovation[73] and provide a means to circumvent scale and infrastructure limitation.[74] Likewise, vertical links can provide effective ways of upgrading domestic enterprises, facilitating the transfer of technology, knowledge and skills, improving business and management practices, and facilitating market access.[75] To maximise these potential benefits, MSMEs need to be aware of the mechanisms available under competition law to exempt or authorise conduct.

Advocacy by business associations has a key role to play. Although competition law and policy are designed to protect competition in the market, and is not usually focused on individual businesses, it can indirectly assist MSMEs. Even where MSMEs are aware of their legal rights, MSMEs may not report conduct harming their performance due to the fear of reprisal from their more powerful market counterparts or damage to reputation with respect to providers and consumers.[76] When MSMEs want to pursue their legal rights, there are significant impediments to them doing so due to cost, time and information asymmetry. The *enforcement* of competition law by the Authority, it is an important steppingstone for MSMEs to at first get acquainted with practices that may have harmed their economic activity. However, compensation for damages (redress) incurred for business in general and MSMEs in particular does not rest with the competition authority but Courts. It is in this context, that business associations can play an important role to ensure redress for the batch of MSMEs in a particular industry/sector and solve in turn the lack of incentive to seek redress on an individual basis. By bundling together claims and presenting a collective action on behalf of their members associations facilitate access to justice that would otherwise be costly and procedurally cumbersome.

Redress for injured parties is not a concern of the competition authorities.[77] Individual firms are not likely to be able to draw these macro issues to the attention of competition authorities; it instead requires businesses to have an association speaking on their behalf.[78]

3.4 COMPETITION AUTHORITIES: DEALING WITH MSMES

For agencies faced with the challenge of enforcing competition law, there are a plethora of competing priorities. Especially for young agencies (many of whom exist in developing countries), the initial task of understanding the meaning and scope of their own competition laws and advocating for its support amongst the many stakeholders can be all consuming. The agencies must then take steps to enforce the law across (normally) the three pillars of competition law – agreements, unilateral conduct, and mergers - while at the same time trying to ensure that other government policies do not work counter to the competition policy goals.

When competition authorities do engage, further challenges arise in trying to engage with individuals and collective groups (such as trade associations) who may have limited knowledge and understanding of competition law. Improved education would help facilitate a mutual understanding of how competition law could work to improve market access for MSMEs.

Some agencies are now beginning to recognise this problem and develop strategies to deal with it. There is an evolving community of practice in different parts of the world focussing on how to improve engagement between competition authorities and MSMEs. Agencies in Hong Kong (China), Mexico, South Africa, Australia, the Philippines, Singapore, and Malaysia regularly engage with, and/or prepare publications or advocacy sessions targeted at, the SME sector.[79] This exchange of information and best practice ideas is designed to improve the level of knowledge and awareness of competition law in the MSME sector. Many more competition agencies could benefit from these sorts of exchanges.

3.5 THE EFFECT OF INFORMAL MSMES ON COMPETITION

The informality aspect of MSMEs in developing economies, is an area that needs more research linking it to competition policy and law enforcement. Since many of these businesses may not be registered, it is difficult to apply competition regulations in their operations. As mentioned in Chapter 2, it is difficult to accurately measure the size of these businesses, even if MSMEs account for the majority of firms in most countries (95 per cent on average), and for the vast majority of jobs[80]. In developing countries it may amount to more than 60-70 per cent of formal employment. In sub-Saharan Africa alone, that figure rises to 80 per cent.[81]

From a competition authority perspective, the existence of an unknown informal market makes access to market data and the complex task of defining the market, identifying the market players, and understanding market power even more complex. This makes market analysis difficult, if not impossible.

Where the informal sector itself is infringing competition law, it is unlikely that competition agencies will be in a position to enforce the law against this group. Such enterprises are hard to locate and prosecute. They are often, in effect, outside the law.

CHAPTER 4: IMPACT OF COVID-19 ON MARKET ACCESS & COMPETITION LAW FOR MSMES

This chapter focuses on the potential impact of COVID-19 on competition policy and market access for MSMEs, especially those in developing countries. For a contemporary wider overview of the global economic and social impact of COVID-19, UNCTAD's recently published *Trade and Development Report 2020* is recommended[82].

4.1 OVERALL GLOBAL AND REGIONAL IMPACTS OF COVID-19 ON MSMES

The ultimate impact of COVID-19 on the MSME sector is not yet ascertainable as the pandemic continues, with constant changes in circumstances, including the rate of infection and patient recovery, and of policy responses. One important barometer is the number of business closures, which attempts to measure the number of permanent and temporary exits from the marketplace (temporary closures are typically caused by lockdowns).

The estimated number of small firm closures across the globe is not fully known and is likely to vary from one country to another. However, as Table 4.1 shows, these are already substantial, and at least some seem to support early estimates at the start of the pandemic that between a quarter and a third of all MSMEs could close down permanently from the disruption.[83]

Table 4.1: Likely MSME Permanent and Temporary Closures

Nation	Estimated Closures	Estimate Date
LAC region	2.6 million SME/MSMEs[84]	
Brazil[85]	- Individual Micro-Entrepreneurs (MEI) - 26,517 closures (A MEI's revenue is limited to Brazil Real (R$) 81,000.00 per year; The entrepreneur cannot participate as a partner, administrator, or owner of another company; Hire at most one employee, who receives exclusively 1 (one) minimum wage or the salary floor of the professional category; - Micro-enterprises (ME) - 259,982 closures (A ME can be a 1-person individual company or a legal entity with the following characteristics: annual gross revenue of up to R$ 360,000; maximum of 19 employees if their activity is related to industry or 9 employees for commerce and services; - Small Enterprises (EPP) - 456.155 closures (An EPP is a company whose gross annual revenue is greater than R$ 360,000 and equal to or less than R$ 3,600,000.00[86]	March to December 2020
China	80% SME closed down in February; 18% from February to May,[87]	
Indonesia	49%[88]	April May 2020
Thailand	71%[89]	April May 2020
Lao People's Democratic Republic	41%[90]	April May 2020
Philippines	61%[91]	April May 2020
Ecuador	70% of businesses owned by respondents had closed operations and 30% had partially closed operations 13% of tourism businesses closed [92]	June 2020
Mexico	10,000 formal and 12,000 informal businesses closed down for good in April and May, with 600,000 more companies at risk due to the pandemic [93]	
Philippines[94]	76%	March-September 2020[95]
South Africa[96]	60% of all firms	July 2020
United Kingdom[97]	24% of all firms 41% [98]	April 2020
India	47%[99]	
Bangladesh	50%[100]	
United States	1/5 of small businesses closed down temporarily, 1/3 expects to close permanently within 2 months	May 2020[101]

Source: own compilation by authors

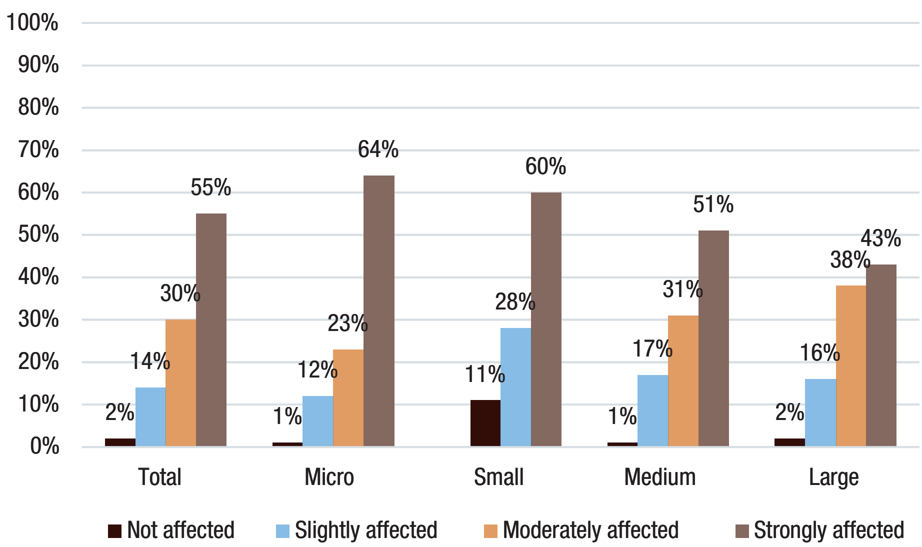
Each country and region are experiencing its own pattern. In Latin America, for example, ECLAC estimates that the pandemic will force 2.7 million firms out of business, leaving 8.5 million workers jobless.[102] Micro-enterprises are estimated to be the biggest single group of closing firms, accounting for as much as 96 per cent of all firm cessations. Most firm closures appear to be occurring in the wholesale and retail trade sectors, amongst hotels and restaurants, real estate and related activities, social and personal services, and small-scale manufacturing. These sectors generate about a quarter of the region's GDP and absorb almost a third of the workforce.

A case in point is Chile, where the impact of COVID-19 on SMEs has been quite strong in terms of employment level. 80 per cent of MSMEs have declared themselves to have serious solvency problems because of confinement and social distancing. It is not yet known how many will survive, particularly in sectors such as tourism and construction.[103]

In Africa, the United Nations Economic Commission for Africa and the International Economics Consulting Limited (IEC Ltd) undertook an online survey among MSMEs on the continent to assess the impact of COVID-19. The results from the first-round survey in April 2020 showed that African businesses had being severely impacted by the crisis. Four-fifths of the respondents indicated being significantly affected, rating the effect as highly severe or severe. The principal concern of MSMEs was surviving the COVID-19 crisis.[104] The services sector appears to have been hit by the crisis less severely than the goods sector, with some data suggesting that services firms were actually operating at *higher* capacity, and reporting that they had been affected to a much smaller degree by the disruption in the supply of raw materials and inputs.[105]

In a second-round survey undertaken in June-July 2020, ECA and IEC Ltd reported that cash flow was still the top challenge for micro-sized enterprises (attesting of their difficulties to operate), while for other company sizes it was either reduced opportunities to meet new customers or drop in demand.[106] Challenges in logistics and shipping of products were significantly higher for businesses operating in the goods sector than services, particularly for MSMEs (as opposed to large-sized companies). Market distortions were felt by the majority of respondents, with price fixing between

Figure 4.1: Impacts on Small and Large Companies



Note: Repondents were asked ´How have your busines operations been affected by the corona virus (COVID-19)´ and ´How many full time employees does the business have?´

Definitions: Microenterprises up to 4 employees; small firms, 5-19 employees; medium-sized firms, 20-99 employees; large firms, 100 or more employees. Data on 2170 businesses in 121 countries. Response rates vary across countries and regions

Source: ITC calculations based on ITC COVID-19 Bussiness Impact Survey. Data collected 21 April – 2 June 2020 competitors as the most recurrent issue. Market allocation for sale of products and exclusive contracts offered to competitors came as next important distortions for companies operating in goods and services, respectively. Surprisingly, less than one third of respondents had raised concerns with government agencies dealing with competition issues.[107] Nearly half of the companies reported an intention to move towards innovative solutions through collaboration/ partnerships. More MSMEs (50 per cent) than larger companies (40 per cent) reported an intention to cooperate in relation to innovation for MSMEs, probably due to having less capacity to innovate on their own.

The ITC *SME Competitiveness Outlook Report 2020* found that smaller companies tended to be more strongly affected by COVID-19 than larger companies.[108] (see Figure 4.1).

4.2 IMPACTS ON MARKET ACCESS THROUGH GLOBAL SUPPLY CHAINS

One important form of market access for many manufacturing and production oriented MSMEs is belonging to one or another global or regional supply networks. While participation in global value chains (GVCs) can bring many benefits to participating MSMEs (including greater profits, higher turnover, learning from international best practices, and transfer of knowhow and technology), it also exposes them to the dangers of economic dependence and power imbalance in GVCs. These risks are compounded during economic crises when large retailers and producers cut back on their purchases. The smaller the SMEs' client base, the more at risk it is of losing its business. Moreover, the cascading effects of falling demand can very quickly travel to other suppliers down the value chain, affecting many other MSMEs directly or indirectly.

The pandemic has already resulted in global disruptions to supply chains, trade, and travel across borders. Some of the world's largest exporters and participants in global supply chains, such as the European Union, the United States and China, have restricted some or all of their cross-border trade. The net effect has been a 7.5% reduction in the value of global goods exported which declined from around US$ 19.015 trillion in 2019 to US$ 17.583 trillion in 2020. The global trade in services declined even more markedly with a 20% decline from approximately US$ 6.229 trillion in 2019 to US$ 4.985 trillion in 2020.[109]

Global trade recovered somewhat in 2021 due to COVID-19 pandemic worldwide mitigation measures as well as a strong export performance of East Asian economies, which experienced huge demand for COVID-19 related products such as masks and medical sanitary products. According to UNCTAD's Global Trade Update report released on 19 May 2021, world trade's recovery from the COVID-19 crisis hit a record high in the first quarter of 2021, increasing by 10% over the same period last year.[110] However, future prospects for world trade remain precarious given the uncertainty caused by new variants of COVID-19 virus and prolonged effects of restricted business practices and a rise in protectionist sentiment.

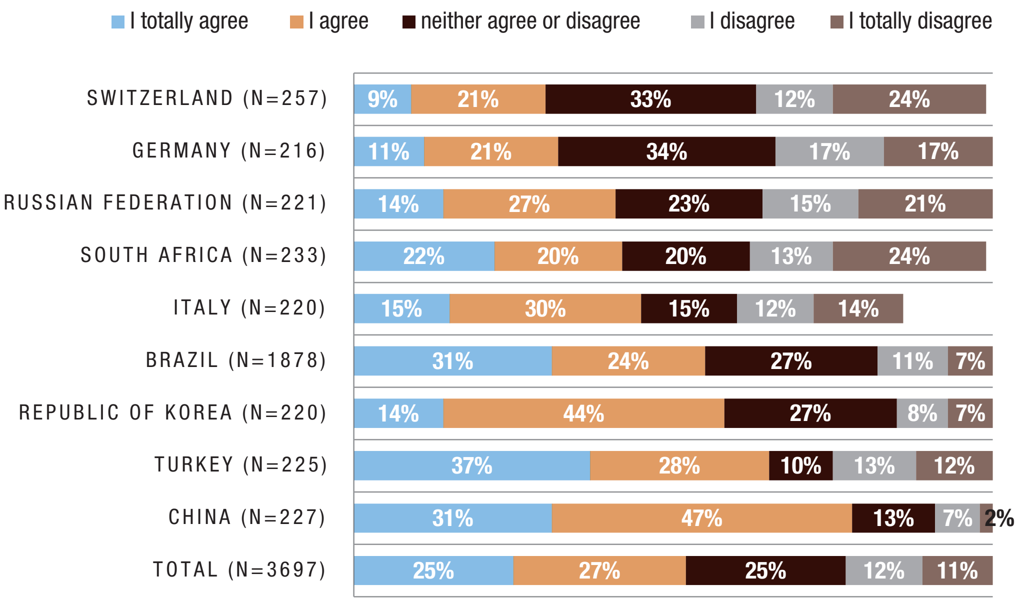
This trend could have major repercussions on many MSMEs, both as exporters and as users of imported inputs. According to the WTO,[111] smaller firms in the most affected industry sectors are relatively more likely to export than larger firms, and hence will bear more of the brunt of rising protectionism in these sectors. Likely sectors include agriculture, the automotive and furniture sectors, amongst others. Importing firms in office equipment suppliers, electronics, chemicals, petroleum, and plastic sectors are also affected. However, the global value of trade in goods UNCTAD updates in the first quarter of 2021 reported higher levels than pre Covid 19 period, especially for pandemic related products which remained strong.[112] Trade in services remains substantially low.

MSMEs tend to depend on a limited number of suppliers and are therefore more prone to supply chain contagion. Many MSME participating in global or regional supply chains are also likely to find it difficult to rebuild connections once the pandemic ends, as some former partners may have entered new alliances with other larger, more stable firms. In Africa, survey results indicated that African businesses switched suppliers due to border closures and turned mostly to national alternatives, rather than African or non-African alternatives.[113]

4.3 MARKET ACCESS VIA DIGITAL MARKETS[114]

The pandemic has radically pushed the shift to "go digital". A recent survey published by UNCTAD illustrates a greater shift to online shopping by consumers in emerging economies than in developed countries, with this shift anticipated to continue in the post COVID-19 future:[115]

Figure 4.2: Shifts in Online Shopping116



Source: UNCTAD (2020) 'COVID-19 and E-commerce – Findings from survey of online consumers in 9 countries

Embracing digitalization can make MSMEs more resilient and more competitive, as well as facilitate their access to international markets. However, the lack of digital preparedness among many small businesses has come into sharp focus during COVID-19. There is growing evidence that MSMEs that cannot shift to online delivery modes have faced greater hardships and may be at higher risk of failure than their more digitally savvy counterparts.[117]

When utilised effectively, digital tools can assist many firms to improve their market access. E-commerce can allow MSMEs to reach more customers, including those in remote locations and in foreign markets. It also makes it possible for MSMEs to source inputs and supplies competitively from a growing number of online retailers. IT-enabled services can be used to reduce costs by outsourcing non-essential services, and can give MSMEs a global presence, allowing them to compete directly into many more markets.

However, most MSMEs, and in particular many micro-enterprises, have been slow at adopting information and communication technology (ICT). The World Bank Enterprise Surveys, for example, show that only 23 per cent of micro-enterprises have a website, whilst 85 per cent of large companies do.[118]

MSMEs in developing countries face particular challenges. The quality of IT infrastructure and related services in these regions puts their firms at a competitive disadvantage relative to firms based in industrial countries, and in comparison, to larger domestic companies which often have more online resources. There can be uneven access to ICT within the same country (i.e., last mile barriers),[119] power supplies are often unreliable and expensive, many managers and staff lack digital literacy, and in some communities, there may be low levels of consumer familiarity with online tools. Cybersecurity is another concern, and MSMEs typically are less well protected from online attacks than their larger counterparts. The Economic Commission of Africa survey revealed that revenues from e-commerce are still only 14 per cent (for goods), largely due to only half of businesses having internet connections, as well as issues with logistics, transport, and payment gateways.[120]

To counter this, certain countries are working on implementing strategies: Costa Rica, for instance, has stated that its post crisis objective is to achieve digital transformation through the creation of a business innovation centre. Mexico, through its Competition Authority (COFECE), launched a digital strategy that explains how to increase understanding and analyse capabilities of digital markets.

It will be important to increase human and technological capacities and international collaboration in this important area. Countries should aim to gain a common understanding of the problems to be tackled to facilitate entry to digital markets and develop the tools to assist in solving these problems for MSMEs.[121]

4.4 GENDER AND MARKET ACCESS [122]

MSMEs operated by entrepreneurs from vulnerable groups, such as women, are being affected disproportionately by market access problems. The International Labour Organisation reports that "globally, almost 510 million, or 40 per cent of all employed women, work in hard-hit sectors," including accommodation and food services; wholesale and retail trade; real estate, business, and administrative activities; and manufacturing.[123]

This has occurred because some industries have been more affected by COVID-19 than others. Obvious examples include travel and tourism-related services that have declined as countries implement travel restrictions and keep frontiers closed;[124] hospitality and accommodation; wholesale and retail trade sectors; social and personal services; and small-scale manufacturing. Disruption in these sectors disproportionately affects women, with the ITC *SME Competitiveness Outlook* showing that 64 per cent of women-led firms have been affected compared with 52 per cent of men-led firms. [125]

This is particularly concern in developing countries. Many smaller firms in the services sector in these regions are female-led or employ high proportions of women and are particularly vulnerable to the pandemic. In Africa, for example, women represent an estimated 70-80 per cent per cent of all informal traders, frequently across borders. The removal of this source of income for women risks the reversal of gains in female empowerment.[126] These entrepreneurs have been hard hit by lockdown measures, forcing them to hold onto unsold goods — much of which is ultimately wasted because of their perishable nature — and the inability of some customers to now pay for goods bought previously.[127] The informal sector may also be expected to rise as a result of increased unemployment resulting from COVID-19.

Thus, there is the risk of widescale feminization of poverty as women bear the brunt of the ongoing pandemic. This has the potential to obstruct the United Nations SDGs, especially those related to poverty alleviation (SDG 1) and gender equality (SDG 5). The pandemic has also intensified the vulnerability of women by increasing the inequitable distribution of unpaid work within households, and further reducing the elasticity of women's labour.

Under the current technical cooperation project, in 2021 UNCTAD organized training workshops for women traders in border towns of Malawi, United Republic of Tanzania, and Zambia to better equip them to overcome the crisis.[128] The training activities s focused on trade rules, traders' rights and obligations aiming to build entrepreneurial skills, in a close link to Empretec, UNCTAD's capacity-building programme designed to promote entrepreneurial potential.

The rapid spread of new digital technologies has created significant economic opportunities for entrepreneurs, but these are not automatic for women across regions and continents, who still face multiple obstacles to succeed as active players in the digital economy. As MSMEs' transition to digitalization and e-commerce is not straightforward, pre-existing gender inequalities such as gender bias, lower participation in decision-making processes, limited digital skills, lack of trust, and unequal access to funding, make it even more difficult.

In response to these challenges, in 2019, UNCTAD launched the eTrade for Women initiative[129] to advance inclusive and sustainable economic growth by empowering women entrepreneurs in the digital economy, in line with SDG 5 and SDG 8. The initiative provides critical support to women digital entrepreneurs through four strategic action lines: advocacy, capacity-building, community-building, and policy dialogue. Its objective is to support women entrepreneurs to thrive as business leaders, impact their ecosystems by leveraging digital tools, and emerge as influential voices in the public policy debate.

Furthermore, online trading, digital banking and fintech technologies such as online or mobile wallets are effectively "gender blind": they allow many more women to register their own businesses online, and to open bank accounts and engage in online trade, without the personal scrutiny of males. In effect, the gender divide can be circumvented in some cases, as ESCWA has noted.[130]

4.5 POLICY RESPONSES TO SUPPORT MSME MARKET ACCESS

Policymakers across the world have responded swiftly with a panoply of measures to deal with the pandemic, and its effects on lives and livelihoods. While public health has been the topmost priority, numerous measures have also been proposed to support MSMEs. These include public measures to support economic recovery, such as loans, state guarantees, subsidies, and funding support to help firms continue to trade; support to begin trading online or expand their digital activities; and business planning and strategic skills development. Despite these efforts, the fall in per capita income resulting from the crisis will severely impact a large part of the economic policy interventions.[131]

In large part, these measures have echoed previous response to major economic shocks, such as the 2008-09 financial crisis. In responding to such crises, governments have attempted to assist MSMEs through a combination of short-term measures, such as shifting MSMEs' demand inwards (e.g., 'buy local' campaigns), meeting their needs for liquidity (such as providing debt waivers or loans), and by keeping workers on the payroll (through wage support schemes). Similar but larger-scale policy measures have been taken by governments around the world in responding to the economic fallout of COVID-19.

A summary of some of these measures is shown in Table 4.2 below and indicates that the range and number of measures implemented in each country has varied significantly. Not all measures are shown – for example, market access are absent from the list. The relative effectiveness of measures in each country has also not been measured.

Table 4.2: MSME Policy Responses in Selected Countries[132]

	Labour			Deferral				Financial Instruments				Structural Policies			
Country	Partial Redundancies	Wage subsidies	Self-Employed	Income/Corporate Tax	Value Added Tax	Social Security and pension contributions	Rent/Utilities/coal Tax	Debt Moratorium	Loan guarantees	Direct lending to SMEs	Grants and subsidies	New Markets	Teleworking/ digitalization	Innovation	Training and redeployment
East Asia & Pacific															
China		✓		✓		✓	✓	✓		✓	✓		✓	✓	✓
Fiji		✓		✓				✓			✓				
Indonesia				✓							✓				
Malaysia								✓		✓					
Thailand				✓	✓	✓	✓			✓					
Viet Nam				✓			✓								
Europe & Central Asia															
Georgia		✓	✓				✓	✓							
Romania		✓		✓			✓	✓	✓						
Russian Federation			✓	✓		✓		✓							
Serbia		✓						✓							
Turkey	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓		
Ukraine							✓	✓							
Latin America & the Caribbean															
Brazil	✓	✓		✓				✓		✓					
Colombia				✓	✓		✓	✓	✓	✓					
Costa Rica	✓			✓	✓				✓	✓					
Jamaica		✓								✓					
Mexico		✓						✓		✓					
Peru		✓	✓	✓				✓	✓	✓	✓				
Middle East & North Africa															
Egypt				✓			✓	✓							
Morocco		✓	✓	✓	✓			✓	✓	✓					
Tunisia			✓	✓	✓	✓		✓	✓		✓				
South Asia															
Bangladesh		✓						✓			✓				
India				✓						✓					
Pakistan		✓													
Sub-Saharan Africa															
Botswana		✓													
Kenya								✓							
Mauritius		✓	✓					✓			✓				
Senegal								✓			✓				
South Africa								✓		✓		✓			
Uganda		✓	✓	✓	✓			✓	✓		✓				

PROFILE 4.1: FINANCIAL LIMITATIONS ON DEVELOPING COUNTRIES' GOVERNMENTS

While most governments have taken prompt measures to address the health and economic impacts of the pandemic, the scale, quality, effectiveness and, sometimes, timing of response has varied from country to country. Overall, it appears that the size of stimulus packages, measured as a percentage of GDP, is bigger in richer countries.[133] Thus, MSMEs in developed countries are likely to have received a higher level of support than those in developing countries — a fact that has implications for post-COVID-19 competition in international markets. While the ITC survey suggests that governments' policy responses were largely consistent with the needs of the business community, focused surveys from different regions demonstrate some level of disappointments by government's response to the crisis.[134]

One factor limiting the ability of developing countries to provide financial support to MSMEs is according to a recent UNCTAD study their pre-existing high levels of debt.[135] This burden, which can be exacerbated by depreciating currencies, has resulted in heavy servicing costs that drain government budgets. Over half of the countries in Africa, for example, had fiscal deficits in excess of 3 per cent in 2019, and 22 countries had debt-to-GDP ratios above the 60-per cent prudential threshold recommended by the IMF.[136]

Support to MSMEs has come not only from individual countries. There have also been several initiatives by international, multilateral, and regional organizations. International support to business includes a mix of financial aid, program funding, and policy-related assistance. The International Finance Corporation, for example, has proposed a $8 billion fast-track package to support businesses and preserve jobs; some of this funding will be for the benefit of MSMEs in developing countries.[137] The World Bank and the IMF are also tracking the MSME policy support provided by national governments. Some United Nations regional commissions are doing the same at their respective regional level. For example, the United Nations Economic Commission for Africa is undertaking a survey among SMEs to assess the effectiveness of policy responses.

In many countries, the private sector has cooperated with the government in observing lockdown measures and ensuring orderly conduct of business while enforcing social distancing and other sanitary rules. Industry associations have played an important role in educating member businesses about social distancing and other infection-prevention tools. In Latin America and the Caribbean, business chambers have called on their members to participate in national solidarity campaigns to help mitigate the health effects of the crisis by providing medical equipment to hospitals, and food and sanitary products to vulnerable groups. Larger private firms have also assisted MSMEs – for example, commercial banks in Africa have attempted to meet a significant part of MSMEs' need for liquidity and have often responded more quickly than government agencies to small firm needs. In Egypt, an initiative funded by the Central Bank of Egypt was designed to support entrepreneurs including in the promotion of their products via e-commerce channels.[138]

4.6 COMPETITION ISSUES ARISING DURING COVID-19

The changed market environment, together with government policy responses, raises some competition law issues that competition authorities and policymakers around the world have been grappling with. Some of these (e.g., dominance in digital markets) existed prior to the pandemic but have been exacerbated by recent events. Others have been brought into focus by government responses (e.g., financial aid packages). These problems are not unique to developed countries but are also in a number of developing countries such the Philippines,[139] Egypt, Kenya, Nigeria, South Africa, Tunisia,[140] Peru, Haiti, and El Salvador.[141] The successes or failures of businesses during the period also raises varying competition issues, from price gouging to a likely increase in the number of mergers, to cooperation between players who would be otherwise competitive. Competition authorities have a key role in monitoring behaviour to ensure that the economic recovery can take place on a level playing field.

Access to digital platforms is vital for the diversification of MSMEs and has become vital for competition during (and after) the pandemic. The increasing reliance on digitalisation raises competition concerns in different facets. Enforcement of existing laws may be problematic because conventional measures of market power based on firm size may not reflect the true nature of online competition. In an online environment, it is possible for a firm with few assets (i.e., 'small' in the traditional sense) to have a large customer base. Some digital providers have also instituted policies that restrict the freedom of participating business to also deal with competitors, or which institute unreasonable fees and conditions.[142]

There is a danger that some of the support mechanisms provided may distort markets, limit market access for some firms, and reduce the competition dynamic where those support mechanisms are not offered on an equivalent basis. State aid issues typically arise where a government gives a benefit to a specific company or certain industries, but not others. For example, during the 2008 financial crisis, China offered favourable lending to state-owned enterprises that continued to operate with losses.[143] The European Union regulates state aid that distorts competition under the Treaty on the Functioning of the European Union. In response to the pandemic, the European Commission issued a Communication on the "Temporary Framework for State Aid Measures to Support the Economic in the Current COVID-19 Outbreak," which sets out how its state aid rules are to be applied during the pandemic[144]. Support mechanisms designed to assist MSMEs have already been approved under the Temporary Framework.[145] Similar assistance in the form of grants and subsidies has also been provided in developing countries (see Table 4.2 above). In Myanmar, for example, the government created a COVID-19 fund and Economic Relief Plan (CERP), which includes measures to offer relief to businesses. Whether support of this nature will distort competition will depend on factors such as the "amounts of aid involved, its objective, type of measures, and recipients – for example, the size and sector of beneficiaries".[146] Where there is no formal state aid regime, consideration will need to be given to ways in which government can ensure the funding is provided in a non-discriminatory way.[147]

It is likely that competition policy and law will have an increased role to play in ensuring a level playing field. At least one competition authority has publicly noted that some government stimulus measures, for example, may lead to the favouring of particular firms and industry sectors which receive more aid than others.[148] Competitive neutrality may also be compromised.

Another issue is price gouging, the practice of increasing prices of goods or services to a level that is considered unfair or unreasonable. Although some competition laws do prevent price gouging (usually in the form of a prohibition against exploitative abuse of dominance), many competition authorities have historically shied away from enforcing those provisions due to difficulties in ascertaining what is fair and reasonable. In other jurisdictions, price control legislation addresses this issue.[149] In the context of COVID-19, the question of price gouging has arisen for high demand goods (food; health and safety goods, such as personal protection equipment[150]) and services UNCTAD has called for firm action to protect consumers in these times.[151]

With the challenges facing many industries, the pandemic is also likely to give rise to an increasing number of mergers and acquisitions. Competition authorities may be faced with difficult policy decisions regarding whether changes to the 'normal' tests for assessing mergers and acquisitions and more lenient application of the failing firm defence will be required. In addition, the need for businesses to cooperate to ensure that the supply of essential goods and services can be maintained, has risen during the pandemic. Cooperation between entities that would otherwise compete gives rise to obvious competition issues.

These issues are not unique to any one jurisdiction or region, and joint and coordinated actions between competition authorities and policymakers across regions will be needed to ensure the appropriate competition policy responses to both protect the competitive market and tackle cross-border anti-competitive practices.[152] Some competition scholars have called on competition authorities in developed countries not to support a nationalistic approach, as to do so will create an even greater divide with developing countries.[153]

4.7 COMPETITION POLICY RESPONSES

Competition authorities have responded to COVID-19 by introducing changes to the way in which they administer and enforce their laws, the exemptions they grant, and to the activities which they authorise. These responses are discussed in further detail in Chapter 5.

These measures can often work to assist MSMEs but are not without potential drawbacks. Market access for MSMEs can also be potentially limited under some of these competition-related measures. For example, collaborative arrangements between large firms can ensure the free flow of important public goods like health care products, but at the same time reduce the capacity of other firms to enter or compete in such markets. So-called 'crisis cartels' — agreements among competitors to restrict production to improve profitability and avoid exit during a crisis — can arise and cause much harm to MSMEs, which may have neither the resources nor the networks to fight back.

However, such collaborations also have some potential to benefit MSMEs. The Brazilian competition authority, CADE, authorised an agreement between large manufacturers of fast-moving consumer goods (including Coca-Cola, Nestle and PepsiCo) in relation to a project designed to assist small retailers in the sector to recover.[154] The argument of the companies was that, given the deep effects of the crisis, isolated actions would not have the capacity to produce effective results and on the scale required to assist the small retail outlets to resume their activities. The CADE court, unanimously, recognized that the companies had adopted the antitrust risk prevention protocols, safeguarded their prerogative to review their position at any time, and recognized that among the companies there was concern about the restoration of competitiveness and normality in the sector.[155]

Market concentration may also increase when regulators approve emergency rescue mergers - the taking over of firms on the verge of bankruptcy by more powerful firms on the ground of the 'failing firm defence.' CADE noted that the pandemic sparked an important discussion on the possibility of the authority recognizing failing firm defence transactions. In certain situations, it may be less damaging for a company in crisis to merge with or be taken over by its competitor, thereby ensuring job retention, tax collection, and consumer and creditor satisfaction.

The ability of existing competition laws to address the competition issues arising in the digital economy was being considered around the world prior to the pandemic. Its significance is now heightened. For example, in Latin America, the question of whether the existing competition legislation needs to be adjusted, or whether it can be combined with specific regulations to address the concerns, is still being discussed. As this is a global issue, a global response is likely.[156]

As countries prepare for the recovery from the pandemic, competition authorities will have a unique opportunity to influence the design and implementation of recovery aid packages, which are already being prepared by governments with considerable public funds. They will be able to influence that decisions are pro-competitive and that they consider all sectors of the economy. As part of this role, competition authorities must ensure that support funding provided does not distort competition, particularly in jurisdictions that do not have a regime for regulating and/or monitoring the allocation of such aid.

As noted at the recent UNCTAD/ECLAC joint event, competition policy is essential for the maintenance of employment, and the repositioning of the competition of companies as part of industrial policy post COVID-19. However, this is only possible with the creation of strong institutions that accompany industrial and competition policy.[157] Whatever policy choices are adopted, ensuring that a competitive market exists is essential for effective COVID-19 recovery – too few players post COVID-19 will result in increases in concentration and the consequentially for increased anti-competitive conduct. Cooperation during the pandemic must not be allowed to continue for longer than necessary so as to ensure that some competitive rivalry can be maintained.

CHAPTER 5: GLOBAL TRENDS

This chapter identifies the broad global trends that are affecting MSMEs, insofar as these relate to competition issues and market access matters in the COVID-19 era. The chapter draws together and synthesises the individual elements which have been noted in previous chapters, and then identifies some possible responses for policy makers. Many of the suggestions form the recommendations provided in Chapter 6.

As time has passed and the impact of COVID-19 has played out around the world, some identifiable economic patterns and trends are emerging in the MSME sector. These are likely to continue into the era of tentative post COVID-19 recovery:

1. Many governments are propping up existing firms as a policy priority.
2. Substantially more co-ordinated (and potentially anti-competitive) economic activity is being approved by competition agencies.
3. Market access is being reduced by inter- and intra-national restrictions on both people and on the movement of goods and services.
4. MSMEs are moving to digital tools quickly wherever possible.
5. Competition regulators and MSME policy agencies are now engaging directly with MSME representative groups; and
6. The role of firms in the informal sector is being addressed by some governments, but not all.

TREND #1: SUPPORT FOR INCUMBENT FIRMS[158]

Concern has repeatedly been expressed that COVID-19 will lead to a long-term decline in the number of trading businesses, and as a result will also induce large-scale unemployment. To address these issues, governments have rolled out a number of measures to assist businesses; these in turn have had an impact on both competition dynamics and market access. The support measures generally fall into three broad categories: direct financial support, debt-based support, and advisory support.

Direct financial support has taken the form of grants, rental subsidies, partial payment of employee wages, and has been a common policy response, found throughout much of the world. For example, in Chile, a salary guarantee has been provided for those who cannot attend work, together with bond payments for those without formal work, affected MSMEs and those in the informal sector. In Cambodia, the government has committed to meeting two-thirds of the minimum wage paid by firms in the local garment sector.

However, there is a marked contrast between different parts of the globe. According to the World Bank, only eight nations in Africa (Cabo Verde, South Africa, Morocco, Egypt, Algeria, Botswana, Namibia, and Mauritius) have offered any kind of employment support and, where it has been offered, it has been subject to restrictions. For example, in Mauritius, the scheme relates to a payment of 50 per cent of salary for one month only; in Botswana, the payment is only available to registered businesses; while in Namibia it extends to the self-employed but only where registered to pay tax.

A second category of assistance has been the provision of debt-based support, including loans and deferrals of payments (such as tax) owing to government. Tax deferral is a commonly employed mechanism. Many of the Latin American, African, and Asian nations providing MSME support are offering some form of tax relief (whether by way of delayed payment, as has occurred in nations such as Mexico, South Africa, and Malaysia) or expedited tax reimbursements (e.g., Guatemala and Indonesia). Relief measures directed at existing or new loans are generally available. Many countries are offering delayed repayments (e.g., Brazil, Mexico, and Thailand), while in Kenya this is the only assistance offered to MSMEs. In some nations (such as Brazil, Chile, and Argentina), governments have offered credit guarantee schemes to enable firms to secure more private debt financing from banks and other lending institutions.

Many governments are also making money available to loan to SMEs (e.g., Argentina, Chile, and Viet Nam) although access to funds is sometimes linked to certain sectors. In El Salvador, money is available for use in sectors such as agriculture, tourism, transport, communications. A COVID-19 Fund has been established in Myanmar to provide loans to businesses in the apparel, hospitality, and tourism sectors, as well as MSMEs owned by Myanmar nationals. Argentina has imposed mandatory obligations on its banks to loan to MSMEs at a rate less than inflation.

Government support of this kind (financial or debt-based) raises competition issues in the form of state aid. Although state aid that distorts competition in the market is prohibited under the Treaty on the Functioning of the European Union (Article 107), not all jurisdictions have express legislative provisions dealing with this issue. The burden of ensuring that a level playing field is retained may fall to competition regulators, subject to having the appropriate legislative mandate.

A third form of assistance has been the provision of advice, mentoring and counselling services to help managers develop strategies to deal with the effects of COVID-19. This is less well promoted and used, but nevertheless is found in countries such as China (where advice is provided to SMEs to better utilise online tools, thereby accelerating digital transformation) and Costa Rica (where businesses are being offered support for development services to assist in a return to economic activity).

Are these measures likely to help MSMEs?[159]

These policy responses are welcome but have limitations and potential problems for the MSME sector.

Direct financial grants are a useful form of practical assistance but are usually limited in size and nature since public funds for such measures are finite. This support has usually only been provided as a short-term, stop-gap measure to help businesses survive the very worst point of the pandemic. But since COVID-19 has shown itself to be a pandemic that is likely to last for an extended period of time, these “tide over” tools may not be enough to keep businesses afloat in the medium to long term.

Access to debt financing is also sometimes problematic for MSMEs. It is often contingent upon applicant businesses having a solid, long-term financial record, which biases lenders to support larger enterprises with substantial market share and proven reserves. Debt financing also has the drawback of deferring (not removing) the need to repay, which MSME operators on marginal incomes may be unwilling to sign up to; few entrepreneurs wish to incur a long-term legacy of debt which they may not ultimately be able to repay.

Finally, these measures are usually only geared towards existing businesses; new and nascent businesses are often ineligible for funding. As a result, government support to businesses often flows to larger firms, not smaller ones, in the name of promptly re-activating the economy once COVID-19 has passed.

Although many jurisdictions have expressly adopted measures directed at the self-employed and informal sectors, there are limitations to this support. Often it is restricted to one-off payments, which can have limited effectiveness. For example, Argentina has offered a single payment to informal self-employed workers to assist with expenses during quarantine; Malaysia has provided a once-only payment to e-hailing drivers. In some other countries, self-employed persons and micro-businesses are excluded from such schemes, as are enterprises in the informal sector. This often occurs because support is only extended to formally registered enterprises, fails to regard self-employment as a form of business activity, or imposes turnover or employee number threshold hurdles before a firm can qualify for assistance.

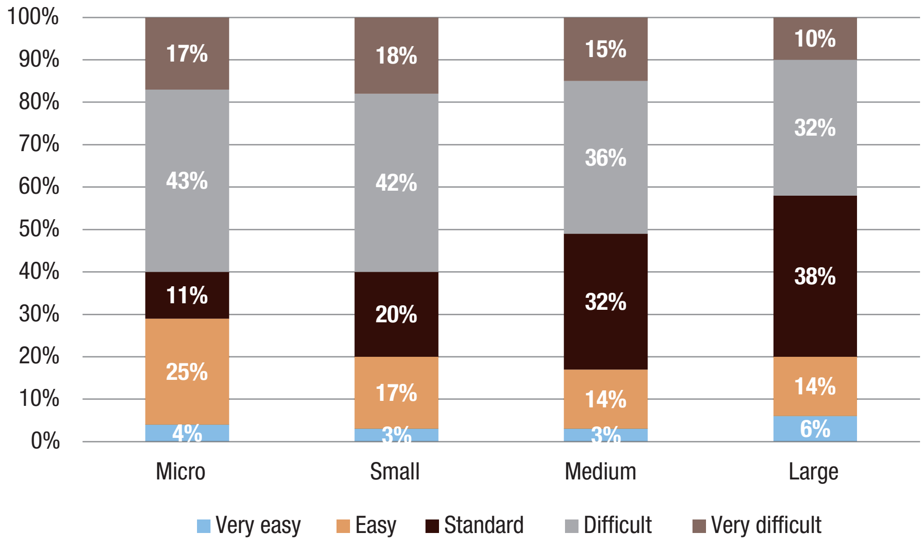
These measures also impacted competition. Easier access to credit, debt moratoriums, and other forms of financial support have led to many businesses remaining operative even when they are no longer viable. These so-called “zombie” businesses remain actively trading in the market. Whilst this has helped preserve jobs, it also has other, more negative, consequences for market competition and access. As *The Economist* has noted, “zombification” leads to markets which are less-contested, poorer services for consumers, and blocks the entry into the market of new, more efficiently run small firms.[160]

These “tide over” and stimulus measures can also lead to a business environment in which existing large-scale enterprises are more likely to receive support than smaller or new rivals. This does not occur because policymakers deliberately set out to support large firms at the expense of smaller ones. Rather it happens because policymakers are often unfamiliar with the true size of the informal and formal MSME sector, how it operates, the characteristics of such firms. Alternatively, policymakers are often unaware that most MSMEs are founded using owner’s capital and operate on thin margins, and often have an aversion to increasing their debt load. This provision of stimulus to some but not all firms may have a chilling effect on competition. As the chairman of the Philippine Competition Commission, Arsenio

Balisacan, noted in July 2020, stimulus packages and policy initiatives can often interfere with fair and healthy market competition.[161]

In addition, MSMEs may be less aware of the support that is available from their government. A significant body of pre-existing academic research has consistently shown that MSMEs are less likely to be aware of government support programs,[162] and recent research conducted by the International Trade Centre across the globe shows that this continues to be the case in the COVID-19 period (see Figure 5.1).

Figure 5.1: MSME Access To Government Information[163]



Note: The respondents were asked 'How easy it is to access information and benefits from government COVID-related SMEs assistance programmes' and 'How many full-time employees does your business have'. Data on 3920 businesses in 127 countries. Response rates vary across countries and regions

Source: ITC calculations based on ITC COVID-19 Business Impact Survey. Data collected from 21 April – 2 June 2020

TREND #2: APPROVAL OF CO-ORDINATED ECONOMIC ACTIVITY

Existing enterprises in several industries have been given implicit and explicit endorsement by competition authorities in many countries to engage in potentially anti-competitive behaviour. Price fixing agreements, sharing of information and collaborative production or distribution are some of the many ways in which this is taking place. Necessary formal authorisations and other oversight processes are also being sped up in some nations. For example, the ACCC has utilised its interim authorisation process and reviewed applications within days. This is a process that would normally take one to two months pre-COVID.

Approvals have commonly been given where co-operation is needed to ensure the supply of essential goods and services (such as in healthcare, food supplies and energy), or where lockdowns threaten the viability of existing supply chains and the ability to provide basic required services to a population. Competition agencies have been quick to recognise that consumer interests (which is frequently the common overriding policy objective of competition law) may be best served during the pandemic by partial relaxation of competition rules. This relaxation of competition rules needs to be balanced against the need for ongoing enforcement, an issue which has been highlighted by various international organisations, including UNCTAD, OECD, ICN and ASEAN.[164] Competition authorities around the world have responded with various approaches driven largely by the enforcement tools and resources available to them.

Some examples of these include:

Published guidance on acceptable collaborations. Several competition agencies have issued explicit guidelines as to when such collaboration will (or will not) be provided. For example, in April 2020, the European Commission make public a Temporary Framework[165] which outlined the types of collaborations that would not be an enforcement priority, provided such collaboration measures were primarily focused on improving supply of particular products. The Competition and Consumer Commission of Singapore in July 2020 published a Guidance Note which confirmed that the CCCS "will not generally investigate collaborations" provided certain conditions were met.[166] Likewise, the Brazilian Competition Authority (CADE) published a Provisional Informative Note on collaboration amongst companies in June 2020.[167] The Competition Commission of India has published an *Advisory to Businesses in Time of Covid-19* acknowledging that businesses may need to coordinate activities (such as sharing information on stock levels, sharing distribution networks and infrastructure, transport logistics, R&D) to ensure continuity of supply and fair distribution. The CCI notes that there are provisions in the competition law that allow this type of coordination where it leads to efficiencies.[168]

Informal guidance for businesses on proposed collaborations. In addition to its guidance on enforcement priorities, the European Commission has renewed its practice of offering ad hoc 'comfort letters' to businesses that wish to obtain legal certainty regarding proposed collaborative arrangements. Similarly, the United States Federal Trade Commission and Department of Justice have issued a joint statement[169] confirming their intention to provide 'expeditious guidance' on whether proposed collaborations comply with federal antitrust laws within 7 days of receiving all relevant information; this is designed to ensure that businesses can respond rapidly to the pandemic. The statement also outlines collaborations that are unlikely to give rise to antitrust concerns.

Statutory exclusions for certain sectors. The United Kingdom government[170] has passed legislation to relax its competition rules on the grounds of public policy to facilitate a response to COVID-19.[171] To date, exclusions have been granted in relation to the supply of groceries, dairy products, health services and transport (maritime crossings).[172]

Authorisations for specified agreements. The Australian Competition and Consumer Commission has used its authorisation power (which allows the ACCC to approve agreements or conduct where the potential benefit to consumers outweighs anti-competitive harm) to permit almost thirty different collaborations needed to ensure continuity of supply to consumers. The ACCC also has exercised its power to issue interim authorisations, thereby allowing it to respond within days of receiving a request.[173]

Wider communications. Some competition agencies have been proactive in providing information to MSMEs and other stakeholders regarding their approach to COVID-19. For example, the Philippine Competition Commission has published a FAQs as part of its COVID-19 resources.[174] To improve accessibility and outreach, the PCC has been publishing extracts from the FAQs regularly on its Facebook page. Likewise, the Fiji Competition and Consumer Commission has issued regular statements on its position in relation to COVID-19. For example, as early as 17 March 2020, the FCCC issued a statement warning against the raising of prices during the Coronavirus emergency.[175] More generally, the ACCC operates a Small Business Information Network of several thousand Australian MSME subscribers who it emails regularly with information on relevant issues as well as its Small Business and Franchising Consultative Committee. This Committee has been utilised during the pandemic to get messages to, and receive information from, the Australian MSME community.

Are these measures likely to help MSMEs?

This development poses both opportunities and challenges to MSMEs. Collaborative behaviour between well-established existing market players tends to be approved when the entities in question are large domestic and/or multi-national corporations. These organisations have greater capacity to influence decision-makers, and their dominance of supply chains exerts an additional pressure on regulators to wave such behaviour through. When this occurs, the anti-competitive detriment may be overlooked or discounted. These larger firms then tend to reinforce their market dominance and, as a result, may exclude small rival firms from effectively competing.

The "fast track" approvals can also impact on the ability of smaller firms to maintain access to their existing markets and clients. When preferential inter-company arrangements are given legal standing, other competing firms suddenly find themselves in a much weaker position than would otherwise be the case. They may have reduced access to inputs and to consumers. To reduce the risk of excluding smaller players, competition agencies need to consider the impact on MSMEs in the same market. This was recently the case in Australia, where an authorisation granted by the ACCC to the large grocery retailers to coordinate activity so as to "ensure supply and fair and equitable distribution of retail products to Australian consumers" was also extended to other, smaller grocery retailers that wished to gain the same protection; these smaller firms did not need to undertake a lengthy approval process, but simply needed to inform the agency of their desire to be covered by the authorisation.[176]

Whilst in theory MSMEs may also be able to come together and seek collective approvals for similar behaviour, this is usually constrained by their limited legal and regulatory resources. Some MSMEs use their local representative business association (such as their sectoral industry body or local business chamber[177]) for assistance, but in many cases these associations themselves do not have a good working knowledge of competition law and how to apply for regulatory approval. Helping upskill associations, by educating them in how and when MSMEs can work together, is a simple yet effective way to help remedy this problem.

TREND #3: LOCKDOWNS CONTINUE TO CONSTRAIN MARKET ACCESS

Lockdowns involving the restricted movement of individuals have become a hallmark feature of public policy responses to COVID-19 around the world. Designed to contain or limit the spread of the virus, they typically involve substantial limitations on ordinary daily life and commercial activity. So widespread have lockdowns become that only a small number of isolated, COVID-19-free island economies (such as several Pacific states) have been able to avoid these measures at all. Lockdown measures affected many jurisdictions in various degrees. In Africa, the constrained linkages with the global value chains, coupled with falling demand and commodity prices contributed to low levels especially in fuel and horticulture exports.[178]

At its mildest, this may involve little more than a small measure of restrictions on activity, such as a requirement to practice social distancing and enhanced hygiene practices in public. This has been the case in Sweden, which adopted an approach designed to engender national "herd immunity," but this strategy has been heavily criticised.[179]

At its most extreme, however, lockdowns can involve the near-total cessation of free movement outside residential households for most of the population over many weeks, with rare exceptions being given only to a small workforce primarily operating essential services (such as infrastructure, government, healthcare, policing, and the like). This "hard line" approach has seen many millions of people confined to their homes over several months, with residents only able to move outside for a few limited reasons. This has occurred throughout the world with very few exceptions (e.g., Sweden, Brazil, and parts of the United States). Lockdowns have been enforced in different ways: in some parts of the world these have included a prohibition on leaving the house even for exercise (The Philippines), through to being allowed out for a limited time (such as one hour per day in the United Kingdom). In El Salvador, only one family member could leave the house to purchase essential items,[180]while in Chile, a 5-year prison sentence could be imposed on those breaking quarantine and curfew rules.[181]

These steps have had the biggest single impact on market access for MSMEs. Many firms in non-essential industries have simply been ordered to cease trading during lockdown. Without the free movement of people, consumers have become sharply restricted in what they can buy, when and where. Business operators are also limited in their ability to sell to their customers. Some goods and services are no longer able to be transported or delivered at all, whilst many others continue to do so at sharply reduced speeds and in lesser quantities.

Small-scale retail trade has been especially badly hit by this restriction, as small business operators typically have been stopped from accessing much of their customer (market) base. Other industry sectors with many MSMEs have also felt similar pains, such as professional services and small-scale manufacturing. Many small enterprises are at risk of failure when sales revenue collapses, given the thin margins on which most MSMEs trade, their very limited financial reserves (if any), and their limited access to debt financing.

This is the single greatest threat to the continued economic viability of much of the entire MSME sector – so much so that at least one observer has suggested that COVID-19 has the potential to become a mass "extinction event"[182] that may wipe out much of the existing MSME population globally. It is still too early to determine if this will be the case, as official counts of

MSMEs in most countries are usually not collected in real time but lag by many months or years. However, anecdotal evidence in many nations suggests that it is a very real possibility.

Ideally, this issue could be resolved by the removal of lockdowns. In practice, however, lockdowns appear likely to remain a major policy tool for containing outbreaks into the foreseeable future. The problem is further compounded by the fact that a country may experience several unpredictable waves of lockdowns. The virus has shown itself capable of re-appearing suddenly and unexpectedly again in countries that have previously contained it (such as New Zealand and in parts of Europe), which has led to further periods of lockdown.

Strategies for assisting MSMEs

One way in which policymakers can mitigate the effect of lockdowns on MSMEs is to encourage smaller firms to move online. This can allow them to reach new groups of potential customers, operate direct sales and delivery services to existing customers, and develop alternate access to markets. Many firms have quickly embraced this option, such as those in the food delivery, personal entertainment, and clothing sectors.

This measure, however, will not help every business. Many firms offer goods or services that are based on close physical contact and a localised geographic catchment, such as the numerous informal sector retail vendors found across much of the developing world. In many economies, consumers have limited online access, which means the potential digital reach of an MSME to its local market may be small. These limitations have also been recognised in a recent OECD policy note, which found that "across non-OECD countries, jobs may be less readily carried out remotely, whether because they are in sectors which require physical presence or for other reasons (such as access to infrastructure or skills)".[183]

Another step will be for policymakers to develop a deeper understanding of the nature of MSMEs (which will allow them to better take the needs of small firms into account when developing lockdown rules in their country), and to engage more comprehensively with business representative associations before instituting lockdowns. Critical lockdown information, such as lockdown commencement dates, access to suppliers, enforcement mechanisms and a range of other issues are all matters for which most MSMEs will need guidance from government.

A third policy response is to accept the unfortunate fact that many firms may close, and to make this process as simple and low-cost as possible. Policymakers need to provide clear avenues for the owners and employees of such enterprises to promptly access social services when their business income is lost. The process of deregistration and closure should be straightforward and easy. Several countries, such as Australia, have relaxed their corporate laws to temporarily allow firms under some circumstances to continue trading whilst technically insolvent. In addition, policies to re-skill these owners and employees should be introduced urgently, so as to allow them to re-enter the workforce promptly.

Also important will be the need for governments to retain a nation's entrepreneurial culture. Preserving the desire to start a new business will be important. If large swathes of businesses are being wiped out, new ones will eventually have to be created to take their place. Policymakers should therefore seek to develop "relaunch" programs that can commence now and/or when the pandemic passes, and which will allow entrepreneurs to once again enter the market as quickly as possible. Although there are many policy measures designed to increase support to existing MSMEs,[184] consideration should also be given to extending these to include new start-ups. Several developed economy countries (such as France, Germany, and the United Kingdom) have already announced measures specifically targeted at supporting prospective future start-ups.[185]

TREND #4: MSMES ARE GOING ONLINE

One clearly evident trend amongst MSMEs globally has been the large-scale movement of trading activity to an online environment. Whether it be through webpages, social media, chat functions, or a combination of these, many businesses are now using these communication tools to sell products and services.

As discussed above, this is being driven by lockdowns and restrictions on movement, which limits both businesses and consumers in their abilities to undertake traditional, physical purchases. Whilst many small firms may already have had some form of digital presence,[186]declining sales and revenue has now led many more MSMEs to embrace digital tools on a far greater scale than has previously been the case.[187]

A variety of different approaches are being used. In some cases, small firms are creating or re-engineering websites to make them more attractive, and to permit direct purchases by consumers for the first time. Some are by-passing conventional websites altogether and selling directly through various social media platforms. In the Philippines, use of the 'online marketplace' has increased dramatically – partly because the group chat feature of instant messaging and social-media platforms allows MSMEs to conduct much of their business on their smartphones.[188] Yet other MSMEs are using the avenues provided by mass-scale aggregate platform providers such as eBay, Amazon, and the like as their primary sales tool. Some governments are actively supporting this. China, for example, is encouraging platform businesses to lower entry fees. However, the success of these shifts may depend, to an extent, on the competitiveness of the logistics or transport sectors in the relevant markets. Results of the United Nations Economic Commission for Africa's business survey undertaken in July 2020 revealed that 58 per cent of the businesses found challenges in relation to shipping and logistics of products, compared to only 30 per cent for services.[189]

This movement has had a number of positive effects for MSMEs – principally in terms of allowing them to continue to trade, and sometimes to expand their market access into new regions. Online trading has been a major enabler of access to new and existing customer markets for small-scale entrepreneurs.

However, in many developing economies, access to the digital marketplace is constrained by a lack of suitable communication infrastructure.[190] Poor access to the internet and limited wi-fi capacity, as well as older telecommunication technology, can make it difficult for MSMEs to develop a presence and to trade. This is a significant issue in Africa where, in 2017, only 7 per cent of households had subscribed to high-speed internet services[191] and, to a lesser extent, Latin America, where only two-thirds of the population have internet access (with a significant digital divide issue).[192] UNCTAD data indicates that only one in five people in the world's least developed countries have internet access and less than 5 per cent of people in developing countries buy goods online.[193]

More widespread, though, is a lack of relevant skills and knowledge amongst small business employees and owners. Limited understanding of how digital platforms work, low levels of participation in social media for business purposes, and few skills in constructing and maintaining websites can all constrain the capacity of MSMEs to go online. There is a clear need to provide widespread, simple, and practical training in this area. According to UNCTAD's Entrepreneurship Framework (EPF), digital technologies offer opportunities to reach customers across the world with ever-decreasing costs while enabling entrepreneurs to customize global products and services to cater to local markets. For instance, 17% of SMEs have started or increased online business activity during the pandemic as opposed to 24% on large enterprises.[194] Before the pandemic, the gap between small and large firms in terms of having their own website was on average more than twofold, while this gap was much less pronounced among developed economies.[195] Without it, many MSMEs will continue to be effectively denied market access. Some nations are already tackling this problem. China, for example, has adopted various policies to encourage MSMEs to use online tools for remote working, help them.[196] In the Philippines, Congress is proposing a bill with a range of measures designed to stimulate the economy and promote business continuity, including acceleration of online commerce.[197] In Bahrain, the Ministry of Industry, Commerce and Tourism has launched an e-platform aimed at supporting small firms to expand their,[198] whilst Enterprise Georgia also has several schemes to build the digital skills of owner-operators.[199]

A final potentially problematic area relates to equal access to digital trading. Existing larger firms often have the capacity to gain access to the online environment in a way that smaller businesses do not. For example, larger businesses may employ a strategy of securing multiple URLs and search engine optimization so as to prevent access by other businesses - a strategy that is not illegal but is unlikely to be available to small business without the financial resources or time to carry out this activity.

Several platform providers have also been accused of employing allegedly anti-competitive practices which injure smaller firms.[200] For example, the European Commission fined Google EUR 2.42 billion in 2017 for abusing its dominant position by allegedly preferring its' own comparison-shopping site on its search engine. The appeal by Google is awaiting judgment from the General Court.[201] In Australia in 2016, the online travel agent giants Expedia and Booking.com agreed to amend their standard contract terms, which had required that accommodation providers always offer them the lowest price and best availability. This prevented better deals being offered directly to consumers or other competitors.[202] Large platforms may also have access to considerable proprietorial databases which give them an advantage over smaller rivals or have accrued advantages from economies of scale that preclude MSMEs.

TREND #5: COMPETITION AUTHORITIES AND POLICYMAKERS WORKING WITH MSME AGENCIES & ASSOCIATIONS

An encouraging trend amongst many competition authorities and SMEs and other public bodies has been a degree of increased interaction with the various business representative organisations that speak on behalf of the MSME sector. A variety of different government bodies are now seeking to communicate with the business community as they develop interim measures to assist firm survival during the pandemic, and in planning for post COVID-19 recovery.

For example, the Philippines Competition Commission has conducted numerous webinars between March and August 2020, at least two of which were targeted directly at educating industry associations, individual MSMEs and cooperatives on their rights under competition law in the Philippines. This has been provided in recognition of 'the market disruptions impacting small and medium businesses amid the pandemic'.[203] Likewise, competition agencies in countries such as Singapore, Australia and the United Kingdom regularly consult with industry associations as part of their advocacy work and recognise that ongoing consultation will be important in the post-pandemic era.

However, numerous other agencies are not fully familiar with MSMEs and their industry associations. Staff and commissioners of most competition agencies and other like regulatory bodies traditionally have come from a professional background in the law, economics and/or public services. Few of them have had direct experience of what it is like to operate a small firm, and have little knowledge of the real-world constraints, problems, and issues that MSMEs must face on a daily basis.

Many also do not understand the different types of business representative bodies, how they work, and who they do (or do not) represent.[204] For example, there are a wide variety of different organisations which exist in most countries to represent the needs and concerns of the private sector. These typically include business chambers (which usually represent a broad spectrum of different firms, and are centred around a particular geographic location), professional associations (which speak for both firms and individual practitioners in professions as diverse as law, medicine, healthcare, architecture, engineering, accounting and many more fields), industry groups (the organised body for businesses operating in a particular trade or industry sector) and bilateral trade groups (which represent businesses trading across borders).[205] Each of these groups can have different memberships, operate differently, and deal with different cohorts of MSMEs.

At the same time, many MSME representative organisations do not fully understand how government works. These representative associations are often very small and poorly resourced, with limited capacity to provide input into public policy decisions at short notice and to suggest better outcomes.

In many cases, policy responses are formulated either by board members or staff who have little experience themselves working within the policy process within government; these individuals have no prior in-depth experience of working within public agencies.[206]

In contrast, most large firms and multi-national corporations have a sophisticated, well-developed capacity to lobby government, and to have their views heard directly. This imbalance in ability to influence and work with government can have a deleterious effect on policy outcomes, especially in a time (such as the COVID-19 pandemic) when decisions frequently need to be made promptly and on the basis of limited information. Those with immediate or pre-established lines of communication to government are likely to be favoured over other organisations which do not. For example, a recent United Nations Economic Commission for Africa survey showed that less than one third of the small businesses surveyed raised competition concerns with the relevant authorities, despite market distortions (in the form of price fixing and market allocations) being felt by 64 per cent of respondents.[207]

Both policymakers and MSMEs are therefore potentially losing out from the information asymmetry that currently exists between the small business sector and government in many countries.

If business organisations representing MSMEs can be provided with greater knowledge about how to work with government, and if public officials can be given a better understanding of the practical world of the typical MSME in their country, then higher quality policy outcomes should be expected. These outcomes will ideally be ones which exhibit a detailed, sympathetic understanding of the world of the small-scale entrepreneur and the business he or she operates. It will also allow policymakers to develop better-targeted, more effective strategies to improve market access for MSMEs.

Some multilateral bodies are already undertaking this process. For example, the United Nations Economic Commission for Latin America and the Caribbean has reviewed the degree of engagement between public policymakers and industry associations, and noted that whilst "… business associations play a relevant public role by contributing to the formulation of policies or programmes to promote the productive sector … in the vast majority of countries in the region, the information available on the reality of these organizations is fragmentary, partially and poorly updated."[208]

TREND #6: THE IMPORTANCE OF INFORMAL SECTOR MSMES

One of the biggest single groups of MSMEs, both at a global level and within most developing economies, is the informal sector. These business enterprises are usually very small in size and turnover, and operate outside the conventional regulatory framework, but collectively can be very significant. As was mentioned in Chapter 2, figures for this group of enterprises can often only be approximated, but a recent ILO report estimated that they were likely to account for around 90 per cent of all firms in the developing economies, and to generate more than 60 per cent of employment in most developing economies.[209] Whilst several countries have attempted to actively shrink the size of their informal sector, in many regions it continues to flourish and grow.

Because they operate outside of the formal sector, many policy responses to COVID-19 have overlooked this very significant segment of the MSME community. Regulators and policymakers know much more about the formal economy than they do about its informal counterpart; it is also much easier for them to reach formal entities. As a result, both MSME assistance measures and regulatory responses operate at sub-optimal efficiency in the informal sector.

Most informal sector firms have not received government support to deal with the impact of COVID-19. In most nations, these support measures for individual businesses are largely geared towards registered legal entities, and informal enterprises are excluded. For example, in Botswana, only businesses that are registered for tax are eligible to receive wage support for their employees. In the Philippines, the *Magna Carta for Small Enterprises* (in operation prior to COVID-19) makes it mandatory for all lending institutions to allocate 5 per cent of their lending portfolio to SMEs under certain conditions, one of which is that only formally registered MSMEs are eligible to apply.[210]

This has important implications on the ability of small informal firms to survive and to obtain reasonable market access. Formal support from government, such as training, access to free advisory services, development of digital literacy skills and other assistance measures discussed earlier, are likely to be limited. Financial assistance is usually particularly rare for informal businesses, as governments cannot locate or contract with such entities. This in turn constrains the capacity of informal ventures to access "tide over" funds to keep the business going. Registration of business URLs is also difficult, as the website provider is not dealing with a recognised business entity.

Regulation of the informal sector is also problematic, as was pointed out earlier in this paper. Informal enterprises can often compete with an unfair advantage over legitimate firms, since they do not conform to the law nor bear the compliance costs that apply to regulated entities. Enforcement actions against informal firms are also rare.

How can governments reach individual entrepreneurs, employees, and businesses that (by definition) they do not know about? There are several ways to deal with this difficult issue. One is to seek out local, individual knowledge and networks. For example, in Malaysia, state governments such as Perak have enlisted local municipalities to deliver support to informal business operators, as local council employees have a more detailed and intimate knowledge of individuals in an area.

In Singapore, the National Trades Union Congress is being used to provide some financial support to self-employed union members as part of a broader member support program.[211]

This is an important issue. The ILO, for example, has recently argued that providing more support to informal businesses may be a crucial pivot point in bringing them into the formal economy, and that for this reason governments should pursue this as a priority[212]. It is also important because they can often unfairly impede the survival of formal MSMEs.

Public policymakers need to know much more about the informal sector – how big it is, what it consists of, and the barriers and triggers to the formation and operation of informal enterprises. To this end, the provision of training for public officials on the nature and characteristics of the informal sector can be useful. Providing policymakers, regulators, and delivery arms of government with a better understanding of this type of MSME may well encourage them to give more consideration to this sector when framing policies.

CHAPTER 6: POLICY RECOMMENDATIONS

This report concludes with recommendations addressed to competition authorities and MSME agencies. It provides specific recommendations to each of these entities individually and jointly.

6.1. RECOMMENDATIONS TO COMPETITION AUTHORITIES:

Recommendation 1: Support to and engagement with SMEs

Competition law usually applies only to significant restrictions of competition in the market, thereby presupposing the existence of anti-competitive business conducts or abuses of market power of a certain dimension. Therefore, SMEs' behaviours may not infringe competition provisions but since micro and small enterprises have an important role in the developing countries' economies, Competition Authorities should engage with them and their business associations to raise their awareness to the competition regime and to support them within the applicable legal framework.

Although during the COVID-19 pandemic many competition authorities have exceptionally accepted some level of cooperation between competing businesses to ensure the security of supply, particularly for health and consumer needs, for instance, during a certain period of time, it is crucial to familiarise SMEs with competition law and policy, while Competition Authorities will also benefit from better understanding how SMEs operate and what challenges they face.

Further, it is necessary to unequivocally inform SMEs that exceptional decisions are temporary by nature and that exemptions will be reviewed to allow competition to resume between market players once the pandemic recedes.

Recommendation 2: Provide guidance to SMEs

It is important to provide SMEs with concrete guidance in a clear and unambiguous manner. Several authorities have issued guidance for small firms during the COVID-19 period (such as Singapore's "Guidance on COVID Business Collaboration",[213] which helps firms know when they can share production lines or inputs), and other authorities should be encouraged to do the same.

These guidelines should include the setting of thresholds below which agreements or conduct entered by MSMEs are not considered to raise competition concerns to improve legal certainty and predictability that allows firms to make future decisions without fear that they may break the law. For example, Malaysia has introduced a "safe harbour" threshold which presumes that agreements or conduct entered by MSMEs with market shares below 20 per cent are unlikely to affect competition in the market. (Serious cartel activities, such as price fixing, remain offences).

In addition, Competition Authorities may exempt certain agreements which although restricting competition may achieve efficiencies that are taken into account in the overall analysis: this is the case of joint purchasing agreements of commodities or components, that allow SMEs to acquire these products in better conditions and compete with larger companies in the markets, in areas such as public procurement.[214]

6.2. RECOMMENDATIONS TO GOVERNMENTS AND MSME AGENCIES:

Recommendation 3: Monitoring financial support schemes to MSMEs

Governments and public bodies responsible for supporting SMEs should monitor the impact of the financial support provided to MSMEs, to ensure that public funds are used efficiently to financing investments to promote growth and innovation and are not artificially maintaining the so-called "zombie firms", that are not viable in the medium to long term, in the marketplace, distorting competition.[215]

At the same time, MSMEs should be fully aware that public resources are limited and therefore, they should design exit strategies from dependence on public support through innovation and new methods of doing business.

Recommendation 4: Promoting MSMEs access to digital market

COVID-19 has seen a large scale, almost global, movement of business and consumer transactions into the digital marketplace, where business can continue to operate and undertake transactions with customers without fear of infection that arises from person-to-person contact. Digital access is now often tantamount to market access. However, many online marketplaces contain anti-competitive mechanisms that disadvantage many MSMEs, and competition authorities often do not have suitable legal tools for dealing with such matters.

Given this accelerated process of digitisation, it is essential that developing countries have an instrument to provide greater clarity, transparency and security to MSMEs access to and dealings with digital platforms, particularly with regard to e-commerce and means of payment and financing, as recommended by the UNCTAD-led study "COVID-19 and e-commerce: a global review" (2021), [216] which amongst others, highlights financing for e-commerce through Governments and business organizations support to improve access to investment as well as exploring alternative funding models as a priority; while underlining skills development in an inclusive manner through training in e-commerce adjusted to local markets and business experience and through the strengthening of national IT sectors to support their digital transformation, within other measures, as another priority.

MSME agencies should also organise training on the key emerging issues in digital markets that affect MSME economic recovery in the wake of COVID19 to facilitate their access.[217]Mainstreaming digital, financial, and marketing skills into business development services is a critical policy objective that should be prioritized with a view to increase adoption and use of ICT through mobile applications from accounting to inventory management, from marketing to accessing finance. Specifically, existing training curricula should be strengthened to address the needed skills in utilizing digital technologies for accessing markets as well as alternative forms of finance. After all, even domestic public procurement practices are moving into digital platforms. Mentoring and training programmes instituted by chambers of commerce can solidify such trainings into long-term capacity building for entrepreneurs and MSMEs. In doing so, specific attention must be paid to entrepreneurs and MSMEs from vulnerable backgrounds who are particularly affected by the digital divide.[218]

Recommendation 5: Increased engagement with the informal MSMEs

Often overlooked, informal small firms are in fact important factors in both competition regulation (where their presence can distort the market) and in market access ability (where they may have an unfair advantage over legitimate firms). Yet the level of knowledge about this sector is limited, notably due to the various degrees of informality, as is their engagement with informal enterprises. Measures to formalize the economy, i.e., streamlined business registration, licensing, and compliance; increased social security coverage and reduced taxes or other financial obligations; upgrading access to finance and business development services; can provide for a healthier ecosystem for SMEs.[219] Governments should support SME bodies' efforts to implement incentives for informal SMEs to register.

6.3. RECOMMENDATIONS TO MSME AGENCIES AND COMPETITION AUTHORITIES

Recommendation 6: Promoting joint dialogues and capacity building activities between MSME associations and regulatory bodies

It is of the utmost relevance to improve the dialogue and cooperation between the MSME sector representatives and Governmental bodies representatives at national and regional levels, considering global markets, namely with the support of international and regional organizations.

These meetings may allow parties to share ideas and policies and exchange of experiences, as well as to discuss concrete measures for adoption. At the regional level, the United Nations regional economic commissions have an important role to facilitate such discussions, while UNCTAD has an important part at the global level namely for technical cooperation activities. Indeed, capacity building initiatives bringing together competition and SMEs experts as other regulatory bodies' representatives, will improve awareness on competition law and market access issues to MSME associations. MSMEs can also substantially benefit from peer learning under the umbrella of trade associations.

ENDNOTES

1 UNCTAD (2020) *Impact of the COVID-19: Pandemic on Trade and Development, Transitioning to a new normal* -https://unctad.org/system/files/official-document/osg2020d1_en.pdf and UNCTAD (2020) *COVID-19 and e-commerce: Impact on businesses and policy responses* https://unctad.org/system/files/official-document/dtlstictinf2020d2_en.pdf.

2 UNCTAD (2020) COVID-19 and E-commerce: Impact on Businesses and Policy Responses 2020, United Nations Conference on Trade and Development.

3 UNCTAD (2015) *The role of competition policy in promoting sustainable and inclusive growth* /(TD/RBP/CONF.8/6) - https://unctad.org/system/files/official-document/tdrbpconf8d6_en.pdf.

4 See Concurrences Antitrust Publication and Events, Bulletin Competition Law & Covid-19 - "COVID-19 Global Impact: A World Tour of Competition Law Enforcement" (4 "Tracker Maps"), Dave Anderson and Philip Apfel , Bryan Cave Leighton Paisner (Brussels) 23 Jul 2020.

5 World Bank (2020) World Bank Group's Operational Response to COVID-19 - https://www.worldbank.org/en/about/what-we-do/brief/world-bank-group-operational-response-covid-19-coronavirus-projects-list.

6 Available at https://unctad.org/system/files/official-document/tdrbpconf10r2.en.pdf.

7 UNCTAD (2020) *The International Day of Micro, Small and Medium Enterprises* - https://unctad.org/en/pages/SGStatementDetails.aspx?OriginalVersionID=262 (accessed on 25 June 2020).

8 APEC (2015) *SMEs, Competition law and Economic Growth* [online] https://www.apec.org/Publications/2015/09/SMEs-Competition-Law-and-Economic-Growth (accessed on 28 June 2020).

9 UNCTAD (2020) Micro, Small and Medium Enterprises as drivers of post COVID-19 economic recovery in Africa https://unctad.org/meeting/micro-small-and-medium-enterprises-drivers-post-covid-19-economic-recovery-africa.

10 European Commission (2014) https://ec.europa.eu/international-partnerships/system/files/final-ad-aap-2014-alinvest-5-0_en.pdf.

11 WTO (2020) *MSMEs Day 2020* [online] https://www.wto.org/english/tratop_e/msmesandtra_e/msmesday20_e.htm (accessed on 28 June 2020).

12 IMF.

13 Oxford Business Group (n.d.) *Government Support for SMEs Demonstrates Their Importance to Bahrain* [online] https://oxfordbusinessgroup.com/analysis/small-and-medium-large-government%E2%80%99s-support-smes-demonstrates-recognition-their-importance (accessed 11 October 2020).

14 OECD (2019) *Monitoring Georgia's SME Development Strategy* [online].http://www.oecd.org/eurasia/competitiveness-programme/eastern-partners/Monitoring-Georgia%27s-SME-Development-Strategy-2016-2020.pdf (accessed 12 October 2020).

15 Ministry of Micro, Small and Medium Enterprise, Government of India (2020) *What Are Micro, Small and Medium Enterprises?* [online] http://www.dcmsme.gov.in/ssiindia/defination_msme.htm (accessed 13 October 2020).

16 SME Corporation, Malaysia (2020) *SME Definition* [online] https://www.smecorp.gov.my/ (accessed 13 October 2020).

17 Asia Pacific Foundation of Canada (2020) *2020 Survey of Entrepreneurs and MSMEs in Peru*, Vancouver: APFC, p.12.

18 SME Authority, Saudi Arabia (2020) *Defining Establishments* [online] https://www.monshaat.gov.sa/ (accessed 13 October 2020).

19 BusinessTech (2019) "These are the New Definitions for Micro, Small and Medium Enterprises in South Africa," 24 March [online] https://businesstech.co.za/news/business/305592/these-are-the-new-definitions-for-micro-small-and-medium-enterprises-in-south-africa/ (accessed 27 October 2020).

20 Schaper, M. (2010) "Competition Law, Enforcement and the Australian Small Business Sector", *Small Enterprise Research*, Vol. 17 No. 1, p.10.

21 World Bank (2020) *Enterprise Surveys – Trade* [online].https://www.enterprisesurveys.org/en/data/exploretopics/trade (accessed 10 October 2020).

22 Blackburn, R.; Kitching, J. & Saridakis, G. (2015) *The Legal Needs of Small Businesses: An Analysis of Small Businesses' Experience of Legal Problems, Capacity and Attitudes*, London: Small Business Research Centre, Kingston University for the United Kingdom Legal Services Board.

23 Schaper, M. (2016) "Small Business, The Law and Access To Justice: Issues and Challenges" in Clark, D.; McKeown, T. & Battisti, M. (eds) (2016) *Rhetoric and Reality: Building Vibrant and Sustainable Entrepreneurial Ecosystems*, Melbourne: Tilde Press, pp. 21-35.

24 OECD (2015) Equal Access To Justice, OECD Expert Roundtable Background notes; Blackburn, R.; Kitching, J. & Saridakis, G. (2015) *The Legal Needs of Small Businesses: An Analysis of Small Businesses' Experience of Legal Problems, Capacity and Attitudes*, London: Small Business Research Centre, Kingston University for the United Kingdom Legal Services Board.

25 Australian Small Business & Family Enterprise Ombudsman (2018) *Access To Justice: Where Do Small Businesses Go?* Canberra: ASBFEO; Burgess, R. (2016) "SMEs and Private Enforcement of Competition Law: Achieving Redress" *Global Competition Law Review*, No. 3, pp. 85-88.

26 Blundel, R. (2013) *Quarterly Survey of Small Business in Britain*, Vol. 29 No. 3, Milton Keynes: Open University Business School.

27 Blundel, R. (2013) cited above.

28 Doner, R.F., & Schneider, B.R. (2000) "Business Associations and Economic Development: Why Some Associations Contribute More Than Others" *Business and Politics*, Vol. 2 No. 3, pp. 261-288.

[29] ITC (2012) Combating Anti-Competitive Practices https://www.intracen.org/Combating-Anti-Competitive-Practices/ ; WTO (2018) Competition Policy, Trade And The Global Economy: Existing Wto Elements, Commitments In Regional Trade Agreements, Current Challenges And Issues For Reflection https://www.wto.org/english/res_e/reser_e/ersd201812_e.pdf.;.

[30] UNCTAD (2013) *The Impact of Cartels on the Poor* [online] - .https://unctad.org/meetings/en/SessionalDocuments/ciclpd24rev1_en.pdf (accessed 25 September 2020). For a discussion of other breaches by members of trade associations in Malaysia, see Dorai Raj, Shila and R. Burgess (2016) "SMEs and Malaysia's New Competition Law: Experiences to Date" in Michael T Schaper and Cassey Lee (eds), *Competition Law, Regulation & SMEs in the Asia-Pacific - Understanding the Small Business Perspective*, Singapore: ISEAS.

[31] ILO (2020) "Informal Economy" [online] https://www.ilo.org/global/topics/%20employment-promotion/informal-economy/lang--en/index.htm (accessed 10 October 2020).

[32] UNCTAD (2001) The "missing middle" in LDCs: why micro and small enterprises are not growing : Growing Micro And Small Enterprises In Ldcs UNCTAD/ITE/TEB/5 https://digitallibrary.un.org/record/452413?ln=en and Schoar, A. (2010) "The Divide between Subsistence and Transformational Entrepreneurship" in Lerner, J. & Stern, S. (eds) *Innovation Policy and the Economy*, Vol. 10, pp. 57-81.

[33] United Nations Economic and Social Commission for Western Asia (2017) "Informality in the Arab Region: Another Facet of Inequality," *Social Development Bulletin*, Vol. 6, No. 4.

[34] Bosma, N. & Kelley, D. (2019) *Global Entrepreneurship Monitor: 2018-2019* London: Global Entrepreneurship Research Association.

[35] Ismail, M. B. M. (2012), "Demographic Profile of Micro, Small and Medium Entrepreneurs in South Eastern Region -SER- of Sri Lanka" Paper presented at International Research Conference- 2012 (JUICE- 2012), University of Jaffna, Sri Lanka, Held on 20th & 21st July, 2012, p.40.

[36] UNCTAD (2020) *Global Initiative towards post-Covid-19 resurgence of the MSME sector* - https://unctad.org/project/global-initiative-towards-post-covid-19-resurgence-msme-sector

[37] UNDESA Report on MSMEs and the Sustainable Development Goals https://sustainabledevelopment.un.org/content/documents/26073MSMEs_and_SDGs.pdf

[38] WTO Trade and Environment Week – November 2020 and OECD Forum on Competition and Sustainability – December 2020.

[39] Holmes, Simon (2020) "Climate change, sustainability, and competition law" Journal of Antitrust Enforcement, Volume 8, Issue 2, pp 354-405, available at https://doi.org/10.1093/jaenfo/jnaa006 (accessed 27 October 2020).

[40] See section 2 (Declaration of Policy) Philippine Competition Act

[41] See section 3 (Objective) Myanmar Competition Act which states that the objectives of the competition law include "to protect and prevent acts that injure the public interests … for the purpose of development of the national economy".

[42] The preamble to the Malawi Competition Act states: "An Act to encourage competition in the economy by prohibiting anti-competitive trade practices; to establish the Competition and Fair Trading Commission; to regulate and monitor monopolies and concentrations of economic power; to protect consumer welfare; to strengthen the efficiency of production and distribution of goods and services; to secure the best possible conditions for the freedom of trade; to facilitate the expansion of the base of entrepreneurship and to provide for matters incidental thereto or connected therewith".

[43] South Africa's Competition Act includes as an objective ensuring "that small and medium-sized enterprises have an equitable opportunity to participate in the economy" (section 2(e)).

[44] See Fox, E. M. (2016) "Competition Policy: The Comparative Advantage of Developing Countries" *Law and Contemporary Problems*, Vol. 79 No. 69, pp. 69-84

[45] Ibid.

[46] Ivaldi, Marc, et al. (2014) Cartel Damages to the Economy: An Assessment for Developing Countries Working Paper. Toulouse School of Economics.

[47] ECA, African Union, AfDB and UNCTAD (2019) Assessing Regional Integration in Africa (ARIA IX): *Next Steps for the African Continental Free Trade Area* https://www.uneca.org/sites/default/files/PublicationFiles/aria9_report_en_4sept_fin.pdf (accessed 5 August 2020).

[48] Ivaldi, Marc, et al. (2014) Cartel Damages to the Economy: An Assessment for Developing Countries Working Paper. Toulouse School of Economics.

[49] See n. 17.

[50] UNCTAD (2011), "Foundations of an effective competition agency" - https://unctad.org/system/files/official-document/ciclpd8_en.pdf .

[51] Competition Commission of India (2017), "Challenges faced by young and small competition agencies in the design of merger control" Submission to the Intergovernmental Group of Experts on Competition Law and Policy https://unctad.org/system/files/non-official-document/ciclp16th_c_India_en.pdf.

[52] https://blogs.afdb.org/fr/blogs/afdb-championing-inclusive-growth-across-africa/post/mergers-and-acquisitions-in-africa-10163

[53] OECD (2018), "Competition Law and State-Owned Enterprises', Global Forum on Competition, Background note by the Secretariat, 30 November 2018, DAF/COMP/GF(2018)10 .

[54] World Bank Group (2020), "State Your Business! An Evaluation of World Bank Group Support to the Reform of State-Owned Enterprises, FY08-18" - https://ieg.worldbankgroup.org/evaluations/state-your-business/state-owned-enterprise-challenges-and-world-bank-group-reforms.

[55] The Human Science Research Council (2013), "Lending a hand: state-owned enterprises can assist small business development" - http://www.hsrc.ac.za/en/review/hsrc-review-march-2013/lending-a-hand .

[56] Barbados Fair Trading Commission (2009) "Competition and Small Business" *Business Monday*.

[57] The Anti-Monopoly Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 30, 2007, effective Aug. 1, 2008). 2007 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 68, art. 13–15; Wang, J (2017) A Maze Of Contradictions: Chinese Law And Policy In The Development Process Of Privately Owned Small And Medium sized Enterprises In China, Michigan Law Review Vol. 25.3.

[58] See Malaysia's *Guidelines on Chapter I Prohibition* and Singapore's *Guidelines on Section 34 Prohibition*.

[59] See European Commission *Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice)* C(2014) 4136.

[60] Section 9 Competition Act 1998.

[61] Section 90 Competition and Consumer Act 2010.

[62] Competition Commission India Presentation on MSMEs under Competition Act 2002 -.https://www.cci.gov.in/sites/default/files/presentation_document/msme_august_20090213110539.pdf?download=1.

[63] Kampel, K and Ridge, L (2007) *Leveraging Competition Policy for SME Development and Shared Prosperit*y https://www.researchgate.net/publication/237371747_The_Role_of_South_African_Competition_Law_in_Supporting_SMEs.

[64] World Economic Forum (2019) Platform for Shaping the Future of Trade and Global Economic Interdependence, White Paper, Competition Policy in a Globalized, Digitalized Economy.

[65] OECD (2020) Start-ups, killer acquisitions and merger control – Note by the United States - DAF/COMP/WD(2020)23.

[66] Competition Commission of South Africa, *Competition Act: Guideline on Small Merger Notification*, Notice 386 of 2009.

[67] Angumuthoo, M. et al, (2020) "Public Interest in Mergers: South Africa" *Antitrust Bulletin*, Vol. 65 No. 2, pp. 312-332.

[68] KPPU Regulation No. 3 of 2019, Assessments of Mergers or Consolidations of Business Entities or Acquisitions of Shares in Companies Which Might Result in Monopolistic Practices and/or Unfair Business Competition.

[69] See, for example, Schaper, M.T. & Lee, C. (eds) (2016) *Competition Law, Regulation and SMEs in the Asia-Pacific: Understanding the Small Business Perspective*, Singapore: Institute of South East Asian Studies-Yusof Ishak Institute.

[70] Burgess, R. and Raj, S. (2016) "Competition Law in ASEAN" *Australian Journal of Competition and Consumer Law*, Vol. 24, p. 258.

[71] Ibid.

[72] Burgess, R. *Trade Associations: Competition Law Advocates or Offenders?* in Schaper, M. and Lee, C. (eds) (2016) *Competition Law, Regulation and SMEs in the Asia-Pacific: Understanding the Small Business Perspective*, Singapore: ISEAS – Yusof Ishak Institute.

[73] Mesquita, L. & Lazzarini, S. (2009) *Horizontal and Vertical Relationships in Developing Economies: Implications for SMEs' Access to Global Markets* in New Frontiers in Entrepreneurship, Springer, pp. 31–66.

[74] Markusen, A. (1996) *Sticky Places in Slippery Space: A Typology of Industrial Districts*. Economic Geography, Vol 72, No. 3, pp. 293-313.

[75] UNCTAD (2008) *Creating business linkages* https://unctad.org/en/Docs/diaeed20091_en.pdf (accessed on 28 June 2020).

[76] Reserve Bank of India (2019) *Report of the Expert Committee on Micro, Small and Medium Enterprises* https://www.rbi.org.in/Scripts/PublicationReportDetails.aspx?UrlPage=&ID=924 (accessed on 20 July 2021).

[77] For further discussion on the challenges for SMEs in privately enforcing competition law, see Burgess, R. (2016) "SMEs and Private Enforcement of Competition Law: Achieving Redress" *Global Competition Law Review*, Issue 3.

[78] ITC (2016) Sme Competitiveness: Standards And Regulations Matter, Some Competitiveness Outlook 2016 https://www.intracen.org/uploadedFiles/intracenorg/Content/Redesign/Projects/SME_Competitiveness/Part%20I.pdf. ; https://www.accc.gov.au/business/industry-associations-professional-services/industry-associations.

[79] See for example, FAQs for SMEs published by the Hong Kong Competition Commission (https://www.cedb.gov.hk/citb/doc/en/publication/faq.pdf); the Malaysia Competition Commission has designed an e-learning course specifically targeted at compliance by SMEs; the South African Competition Commission has published a brochure "Competition Act – A Guide for SMEs: http://www.compcom.co.za/wp-content/uploads/2017/11/SME.pdf; Mexican Federal Economic Competition Commission (COFECE) published a brochure on SMEs and Economic Competition (https://www.cofece.mx/cofece/images/Documentos_Micrositios/PyMESyCompetenciaEconomica_250815_vf1.pdf)

[80] WTO (2016) World Trade Report 2016: Levelling the trading field for SMEs https://www.wto.org/english/res_e/booksp_e/world_trade_report16_e.pdf.

[81] UNCTAD (2017) Integrating SMEs into value chains can boost development - https://unctad.org/news/integrating-smes-value-chains-can-boost-development.

[82] UNCTAD (2020) *Trade and Development Report 2020* - https://unctad.org/webflyer/trade-and-development-report-2020.

[83] McKinsey (2020) *Which Small Businesses Are Most Vulnerable To COVID - And When* https://www.mckinsey.com/featured-insights/americas/which-small-businesses-are-most-vulnerable-to-COVID-and-when (accessed on 28 June 2020).

[84] CEPAL (2020) Sectors and businesses facing COVID-19: emergency and reactivation.

[85] Reuters (2020) *Coronavirus Lockdowns Shutter 522,700 Brazil Businesses in Two Weeks* https://www.reuters.com/article/us-health-coronavirus-brazil-bankruptcy-idUSKCN24H2XR (accessed on 28 June 2020).

[86] SEBRAE (2020)

[87] The Impact of COVID-19 on Small and Medium-sized Enterprises: Evidence from Two-wave Phone Surveys in China – Center for global development

[88] ADB Navigating Covid-19 In Asia And The Pacific September 2020

[89] ADB NAVIGATING COVID-19 IN ASIA AND THE PACIFIC September 2020

[90] ADB NAVIGATING COVID-19 IN ASIA AND THE PACIFIC September 2020

[91] ADB NAVIGATING COVID-19 IN ASIA AND THE PACIFIC September 2020

[92] CESO (2020) Socioeconomic impacts of COVID-19 Latin America and the Caribbean September 2020

[93] OECD (2020) https://www.oecd.org/coronavirus/policy-responses/coronavirus-covid-19-sme-policy-responses-04440101/

[94] Manilla Bulletin (2020) *Closure of 26% of PH Businesses Alarms DTI* https://mb.com.ph/2020/07/16/closure-of-26-of-ph-businesses-alarms-dti/ (accessed on 28 June 2020).

[95] ADB (2020) COVID-19 Impact on Micro, Small, and Medium-Sized Enterprises and Post–Crisis Actions Six-month after the outbreak in the Philippines, p.4.

[96] McKinsey (2020) *How South African SMEs Can Survive and Thrive Post COVID-19* https://www.mckinsey.com/featured-insights/middle-east-and-africa/how-south-african-smes-can-survive-and-thrive-post-COVID-19# (accessed on 28 June 2020).

[97] Statista (2020) *Share of Businesses That Have Closed or Temporarily Paused Trading in the United Kingdom due to Coronavirus (COVID-19) as of April 2020*, By Sector https://www.statista.com/statistics/1114406/coronavirus-businesses-closing-in-the-uk/ (accessed 24 September).

[98] OECD (2020) https://www.oecd.org/coronavirus/policy-responses/coronavirus-covid-19-sme-policy-responses-04440101/

[99] https://data.humdata.org/dataset/future-of-business-survey-aggregated-data

[100] https://data.humdata.org/dataset/future-of-business-survey-aggregated-data

[101] OECD (2020) https://www.oecd.org/coronavirus/policy-responses/coronavirus-covid-19-sme-policy-responses-04440101/

[102] ECLAC (2020) *Recovery Measures for the Tourism Sector in Latin America and the Caribbean present an opportunity to promote sustainability and resilience* https://www.cepal.org/en/publications/45767-recovery-measures-tourism-sector-latin-america-and-caribbean-present-opportunity (accessed on 28 June 2020).

[103] ECLAC report on the "Dialogue between competition authorities and MSMEs regulatory institutions on post COVID 19 recovery" held on 5 August 2020 and hosted by ECLAC and UNCTAD.

[104] ECA & IEC (2020). Insights on African businesses' reaction and outlook to COVID-19's. IEC: Mauritius & ECA: Addis Ababa. 30 April, available at https://www.uneca.org/sites/default/files/PublicationFiles/eca-iec_survey_COVID-19_africa_english_final.pdf (accessed 16 October 2020)

[105] ECA personal communications with the authors, August 2020.

[106] ECA & IEC (2020). Reactions and Outlook to COVID-19 in Africa. IEC: Mauritius & ECA: Addis Ababa. August 2020, available at https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 16 October 2020)

[107] ECA & IEC (2020). Reactions and Outlook to COVID-19 in Africa. IEC: Mauritius & ECA: Addis Ababa. August 2020, available at https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 16 October 2020)

[108] ITC (2020) SME Competitiveness Outlook: *COVID-19: The Great Lockdown and its Impact on Small Business*, available at https://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/ITCSMECO2020.pdf (accessed on 28 June 2020).

[109] www.data.wto.org

[110] https://unctad.org/news/global-trades-recovery-covid-19-crisis-hits-record-high

[111] https://www.wto.org/english/tratop_e/covid19_e/msmes_report_e.pdf

[112] https://unctad.org/system/files/official-document/ditcinf2021d2_en.pdf

[113] ECA & IEC (2020). *Reactions and Outlook to COVID-19 in Africa*. IEC: Mauritius & ECA: Addis Ababa. August 2020, available at https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 16 October 2020)

[114] For a more comprehensive analysis, please refer to this report "COVID19 and E-Commerce: A Global Review dtlstict2020d13_en.pdf (unctad.org) Some updated figures on online sales volume, see the report cited here Global e-commerce jumps to $26.7 trillion, COVID-19 boosts online sales | UNCTAD

[115] UNCTAD (2020), 'COVID-19 and E-commerce – Findings from survey of online consumers in 9 countries', 8 October 2020, available at https://unctad.org/news/COVID-19-has-changed-online-shopping-forever-survey-shows (accessed 18 October 2020)

[116] UNCTAD (2020), 'COVID-19 and E-commerce – Findings from survey of online consumers in 9 countries' 8 October 2020, available at https://unctad.org/news/COVID-19-has-changed-online-shopping-forever-survey-shows (accessed 18 October 2020)

[117] ITC (2020) SME Competitiveness Outlook: *COVID-19: The Great Lockdown and its Impact on Small Business*, available at https://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/ITCSMECO2020.pdf (accessed on 28 June 2020).

[118] WTO (2016) *Enterprise Surveys* https://datacatalog.worldbank.org/dataset/enterprise-surveys (accessed on 28 June 2020).

[119] "The last mile on average makes up nearly 30% of transport costs. And it is very hard to bring those down" (Brittan Lad, Amazon executive, quoted from ITC (2008: xxi).

[120] ECA & IEC (2020). *Reactions and Outlook to COVID-19 in Africa*. IEC: Mauritius & ECA: Addis Ababa. August 2020, available at https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 16 October 2020)

[121] ECLAC report on the "Dialogue between competition authorities and MSMEs regulatory institutions on post COVID 19 recovery" held on 5 August 2020 and hosted by ECLAC and UNCTAD.

[122] See also UNCTAD "BORDERLINE: Women in informal cross-border trade in Malawi, the United Republic of Tanzania and Zambia" (United Nations, 2019) available at: https://unctad.org/system/files/official-document/ditc2018d3_en.pdf

[123] ILO, 'ILO Monitor: COVID-19 and the world of work'. Fifth edition Updated estimates and analysis, 30 June 2020, available at https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/briefingnote/wcms_749399.pdf (accessed 16 October 2020)

[124] See UNCTAD (2020), 'COVID-19 and Tourism – Assessing the Economic Consequences', available at https://unctad.org/system/files/official-document/ditcinf2020d3_en.pdf (accessed 16 October 2020)

[125] ITC SME *Competitiveness Outlook*.

[126] UNECA (2020), 'Facilitating Cross-Border Trade Through a Coordinated African Response to COVID-19', July 2020 available at https://www.uneca.org/sites/default/files/PublicationFiles/facilitating_cross-border_trade_through_a_coordinated_african_response_to_COVID-19_fin_4aug.pdf (accessed 16 October 2020).

[127] UNCTAD (2020) *What future for women small-scale and informal cross-border traders when borders close?* https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2362 (accessed on 15 June 2020).

[128] See "Helping cross-border women traders navigate COVID-19 crisis | UNCTAD, 9 March 2021", UNCTAD news item.

[129] https://etradeforall.org/et4women/.

[130] Ayman El-Sherbiny, Chief of ICT Policies Section, UN-ESCWA at UNCTAD Ecommerce Week 2020: *Digital payments and trade for MSMEs: Encouraging inclusion and growth through digital transformation* (28 April 2020).

[131] ECLAC report on the "Dialogue between competition authorities and MSMEs regulatory institutions on post COVID 19 recovery" held on 5 August 2020 and hosted by ECLAC and UNCTAD.

[132] Compiled using data from OECD (2020) and the World Bank's Map of SME-Support Measures in Response to COVID.

[133] ITC (2020) *COVID19 and its impact on SMEs* -https://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/ITCSMECO2020.pdf (accessed on 28 June 2020).

[134] ECA and IEC (2020) *Insights on African Businesses' Reactions and Outlook to COVID-19* https://www.uneca.org/sites/default/files/PublicationFiles/eca-iec_survey_COVID-19_africa_english_final.pdf(accessed on 9 June 2020).

[135] The Least Developed Countries Report 2019 https://unctad.org/webflyer/least-developed-countries-report-2019.

[136] ECA (2019) *Economic Report on Africa 2019* https://www.uneca.org/publications/economic-report-africa-2019 (accessed on 15 June 2020).

[137] World Bank (2020) Factsheets https://www.worldbank.org/en/news/factsheet/2020/02/11/how-the-world-bank-group-is-helping-countries-with-covid-19-coronavirus (accessed on 15 June 2020).

[138] https://www.egypttoday.com/Article/3/85449/Nilepreneurs-launches-new-initiative-to-boost-SMEs-exports-via-e

[139] https://www.dof.gov.ph/dof-says-covid-19-emergency-subsidy-largest-social-protection-program-in-phl-history/

[140] Clifford Chance (2020) Coronavirus: Government Financial Aid To Business An African Guide - www.cliffordchance.com › dam › briefings › 2020/0

[141] https://www.statista.com/statistics/1117254/covid-19-economic-relief-package-latin-america-country/

[142] One example is the default setting of many contactless payment systems in favour of credit cards (which often charge small firms a significant fee for such transactions), instead of other systems which are cheaper for an MSME to operate (sometimes known as a "least-cost-routing" option).

[143] Pop, G and A. Amador (2020) "State aid and COVID-19: Support now, but bear in mind long-term effects", Private Sector Development Blog, available at https://blogs.worldbank.org/psd/state-aid-and-covid-19-support-now-bear-mind-long-term-effects

[144] Available at https://ec.europa.eu/competition/state_aid/what_is_new/TF_consolidated_version_amended_3_april_8_may_29_june_and_13_oct_2020_en.pdf (accessed 27 October 2020)

[145] See, for example, the three Italian schemes totalling €6billion to support SMEs approved by the European Commission in July 2020: available at https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1440 (accessed 27 October 2020).

[146] Pop, G and Amador, A. (2020) "State aid and COVID-19: Support now, but bear in mind long-term effects", *Private Sector Development Blog*, available at https://blogs.worldbank.org/psd/state-aid-and-covid-19-support-now-bear-mind-long-term-effects.

[147] The World Bank has suggested aspects that should be kept in mind when designing state aid programs, including ensuring public awareness, minimizing undue effects on market outcomes, abide by principles of transparency and neutrality and addressing the primary needs of the economy. See Pop, G and Amador, A. (2020) "State aid and COVID-19: Support now, but bear in mind long-term effects", *Private Sector Development Blog*, available at https://blogs.worldbank.org/psd/state-aid-and-covid-19-support-now-bear-mind-long-term-effects

[148] A Balisacan, Chairman of Philippine Competition Commission, speaking at an academic seminar on July 8th 2020 identified several provisions in the stimulus package bills that could interfere with fair and healthy market competition. Philippines News Agency (2020) *PCC flags anti-competition provisions in stimulus bills* https://www.pna.gov.ph/articles/1108377 (accessed on 7 August 2020).

[149] See for example, *the Price Control and Anti-Profiteering Act 2011 and Control of Supplies Act 1961* in Malaysia that are used to regulate the price of goods in periods of high demand: https://law.unimelb.edu.au/centres/clen/engagement/other-clen-engagement/competition-law-and-COVID-19-in-asia/malaysia

[150] Competition Policy International (2020), 'NY Accuses Top Hillandale Farms of Price-Gouging During COVID', available at https://www.competitionpolicyinternational.com/ny-accuses-top-hillandale-farms-of-price-gouging-during-COVID/ (accessed on 18 October 2020).

[151] UNCTAD (2020) *COVID-19: Firmer action needed to better protect consumers*, available at https://unctad.org/news/covid-19-firmer-action-needed-better-protect-consumers (accessed 1 December 2020).

[152] ECLAC report on the "Dialogue between competition authorities and MSMEs regulatory institutions on post COVID 19 recovery" held on 5 August 2020 and hosted by ECLAC and UNCTAD.

[153] Fox, R. (2020) "Developing Countries, Markets, and the Coronavirus: Two Challenges" *Journal of Antitrust Enforcemen*t, No. 8, pp. 276–279.

[154] CADE (2020), 'Cade authorizes collaboration among Ambev, BRF, Coca-Cola, Mondelez, Nestlé and Pepsico due to the new coronavirus crisis', available at http://en.cade.gov.br/cade-authorizes-collaboration-among-ambev-brf-coca-cola-mondelez-nestle-and-pepsico-due-to-the-new-coronavirus-crisis (accessed 18 October 2020).

[155] ECLAC report on the "Dialogue between competition authorities and MSMEs regulatory institutions on post COVID 19 recovery" held on 5 August 2020 and hosted by ECLAC and UNCTAD.

[156] Ibid.

[157] Ibid.

[158] References to specific country examples have been taken from World Bank (2020) *Map of SME-Support Measures in Response to COVID* https://www.worldbank.org/en/data/interactive/2020/04/14/map-of-sme-support-measures-in-response-to-COVID (accessed 25 August 2020).

[159] References to specific country examples have been taken from World Bank (2020) *Map of SME-Support Measures in Response to COVID* https://www.worldbank.org/en/data/interactive/2020/04/14/map-of-sme-support-measures-in-response-to-COVID (accessed 25 August 2020).

[160] *The Economist* (2020) "Why COVID-19 Will Make Killing Zombie Firms Off Harder," 26 September [online] https://www.economist.com/finance-and-economics/2020/09/26/why-COVID-19-will-make-killing-zombie-firms-off-harder (accessed 13 October 2020).

[161] UNCTAD (2020) *Impact of the COVID-19: Pandemic on Trade and Development, Transitioning to a new normal* https://unctad.org/system/files/official-document/osg2020d1_en.pdf

[162] Schaper, M. (2014) "Is Anybody Listening? Improving Government Information and Communication To Small Business" in Kotey, B.; Mazzarol, T.; Clark, D.; Foley, D. & McKeown, T. (eds) *Meeting The Globalisation Challenge: Smart and Innovative SMEs In A Globally Competitive Environment*, Melbourne: Tilde, pp. 132-149.

[163] International Trade Council (2020) *SME Competitiveness Outlook 2020: COVID The Great Lockdown and its Impact on Small Business*, ITC: Geneva, p 40.

[164] UNCTAD, for example, recommends that governments take five key actions, which are explained in the publication UNCTAD (2020) *Defending Competition in the Markets During COVID*.

[165] European Commission (2020) *Temporary Framework for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID outbreak* https://ec.europa.eu/info/sites/info/files/framework_communication_antitrust_issues_related_to_cooperation_between_competitors_in_COVID.pdf (accessed on 7 August 2020).

[166] CCCS (2020) *CCCS Issues Guidance Note on Collaborations between Competitors in Response to the COVID-19 Pandemic* https://www.cccs.gov.sg/media-and-consultation/newsroom/media-releases/business-collaboration-guidance-note-20-july-20 (accessed 25 August 2020).

[167] CADE (2020) *Note on the collaboration among competitors* http://en.cade.gov.br/cade-discloses-an-informative-note-on-the-collaboration-among-competitors-to-face-the-COVID-crisis/provisional-informative-note-on-the-collaboration-among-companies-to-face-the-COVID-crisis.pdf (accessed 25 August 2020).

[168] CCI (2020) *Advisory to Businesses in Time of Covid-19*. Available at https://www.cci.gov.in/sites/default/files/whats_newdocument/Advisory.pdf (accessed 1 December 2020)

[169] FTC (2020) *Public Statement on COVID19* https://www.ftc.gov/system/files/documents/public_statements/1569593/statement_on_coronavirus_ftc-doj-3-24-20.pdf (accessed 25 August 2020).

[170] Butler, S. (2020) "UK Relaxes Trading Rules So Food Stores Can Work Together," *The Guardian*, 20th March online edition.

[171] For a discussion of the CMA's response, see Odudu, O. (2020) "Feeding the Nation in Times of Crisis: The Relaxation of Competition Law in the United Kingdom" *Competition Law Journal*, Vol. 19 No. 2.

[172] A list of the Public Policy Exclusion Orders and related notifications can be found at https://www.gov.uk/guidance/competition-law-exclusion-orders-relating-to-coronavirus-COVID

[173] https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register

[174] PCC (2020) *COVID19 Questions* https://phcc.gov.ph/wp-content/uploads/2020/07/PCC-COVID-Resources-Frequently-Asked-Questions.pdf (accessed 25 August 2020).

[175] FCCC (2020) *FCCC Warns Against Raising Prices During Coronavirus Emergency*, available at https://fccc.gov.fj/wp-content/uploads/2020/03/PR-FCCC-Warns-Against-Raising-Prices-During-Coronavirus-Emergency-1.pdf (accessed 1 December 2020).

[176] ACCC (2020) *Draft Determination - Application for Authorisation AA1000477* lodged by Coles Group Limited on behalf of itself and participating supermarkets in respect of engaging in coordinated activities to ensure the supply of Retail Products to consumers during the COVID pandemic. https://www.accc.gov.au/system/files/public-registers/documents/Draft%20Determination%20-2015.07.20%20-%20PR%20-%20AA1000477%20Coles_0.pdf (accessed on 15 July 2020).

[177] A number of examples exist in Australia e.g. the Australian Retailers Association applied for authorisation on behalf of itself and its current and future members to collectively negotiate with landlords regarding the support to be provided to retail tenants

who are adversely impacted by COVID; See https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/australian-retailers-association.

[178] https://unctad.org/system/files/official-document/aldcmisc2020d3_en.pdf

[179] For a discussion of the pros and cons of the Swedish approach see Savage, M. (2020) *Did Sweden's Coronavirus Strategy Succeed or Fail?* https://www.bbc.com/news/world-europe-5349813 (accessed on 15 July 2020).

[180] Kaplan, J. (2020) Briefing – *Our Ongoing List of How Countries Are Reopening, And Which Ones Remain Under Lockdown* https://www.businessinsider.com.au/countries-on-lockdown-coronavirus-italy-2020-3?r=US&IR=T (accessed on 25 July 2020).

[181] Aljazeera (2020) *Chile Tightens Lockdowns as Coronavirus Cases Surpass 200,000* https://www.aljazeera.com/news/2020/06/chile-tightens-lockdowns-coronavirus-cases-surpass-200000-200617171310811.html (accessed on 18 June 2020).

[182] Mulye, P. (2020) "India's Small Business Are Facing A Mass Extinction Event In The Wake of COVID," *Quartz India*, https://qz.com/india/1883935/COVID-a-mass-extinction-event-for-india-small-businesses/ (accessed on 15 July 2020).

[183] OECD (2020) *Leveraging Digital Trade to Fight the Consequences of COVID* https://read.oecd-ilibrary.org/view/?ref=119_119680-di6h3qgi4x&title=COVID-19_SME_Policy_Responses (accessed on 7 June 2020).

[184] For example, Chile that has made a capital injection of US$ 500 million to fund loans to SMEs and individuals until July 2020.

[185] https://www.economie.gouv.fr › web-dp-indus-ang https://www.oecd.org/coronavirus/policy-responses/coronavirus-covid-19-sme-policy-responses-04440101/

[186] Sensis (2018) *Yellow Social Media Report 2018*, Melbourne: Sensis.

[187] Karr, J.; Loh, K. & Wirjo, A. (2020) "Supporting MSME Digitalization Amid COVID," *APEC Policy Brief*, No. 35, July, Singapore: APEC Secretariat.

[188] Asuncion, A. (2020) "Anatomy Of A Competitive Online Marketplace," *Business Mirror* https://businessmirror.com.ph/2020/07/15/anatomy-of-a-competitive-online-marketplace/ (accessed on 15 July 2020).

[189] United Nations Economic Commission for Africa (2020) *Reactions and Outlook To COVID-19 in Africa: African Business Survey Results*, July [online] https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 13 October 2020).

[190] ICT infrastructure and services are one of the key challenges identified by the UNCTAD-led study "COVID-19 and e-commerce: a global review (UNCTAD/DTL/STICT/2020/13), March 2021, (https://unctad.org/system/files/official-document/dtlstict2020d13_en_0.pdf). See also United Nations Economic Commission for Africa (2020) *Reactions and Outlook To COVID-19 in Africa: African Business Survey Results*, July [online] https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 13 October 2020).

[191] Songwe, V. (2019) "A Digital Africa Technology Can Be A Springboard for Faster, More Inclusive Growth," *Finance and Development* https://www.imf.org/external/pubs/ft/fandd/2019/06/pdf/digital-africa-songwe.pdf (accessed on 15 July 2020).

[192] Maloney A. (2020), *Could Coronavirus Lockdown Help Close Latin America's Digital Divide?*, World Economic Forum https://www.weforum.org/agenda/2020/05/could-lockdowns-help-close-latin-americas-digital-divide (accessed on 15 July 2020).

[193] UNCTAD (2020) *The COVID Crisis: Accentuating the Need to Bridge Digital Divides* https://unctad.org/en/PublicationsLibrary/dtlinf2020d1_en.pdf (accessed on 15 July 2020).

[194] UNCTAD estimates based on follow-up COVID-19 surveys collected in May-September 2020 from 23 countries by the World Bank. (www.enterprisesurveys.org).

[195] UNCTAD estimates based on World Bank Enterprise Surveys collection from 38 countries in 2018-2019.

[196] World Bank (2020) *Map of SME-Support Measures in Response to COVID*, https://www.worldbank.org/en/data/interactive/2020/04/14/map-of-sme-support-measures-in-response-to-COVID (accessed 25 August 2020). Furthermore, regarding China, its National Centre for Enterprise Management Development has organized training webinars in June-July 2020 targeting the issue export management during volatility. While the trainings aim to stabilize the MSMEs in the short-run, there is also a long-term agenda to improve their international competitiveness. (www.intracen.org).

[197] Aquende, E. (2020) "Balancing Competition Law and the Preference for Filipino Businesses" *Business Mirror*.

[198] Bahrain News Agency (2020) "Industry Ministry Launches mall.bh Platform" 23 April [online] https://www.bna.bh/en/IndustryMinistrylaunchesmall.bhplatform.aspx?cms=q8FmFJgiscL2fwIzON1%2bDuPTZ%2bz18SpWpOJ%2b82PsRMA%3d (accessed 13 October 2020).

[199] Entreprise Georgia (2020) Annual Report http://www.enterprisegeorgia.gov.ge/en/public-information/annual-report

[200] European Parliament (2020) "Regulating digital gatekeepers - Background on the future digital markets act" Briefing EPRS | European Parliamentary Research Service - Author: Tambiama Madiega Members' Research Service - PE 659.397 – December 2020 - ECLAC (2020) Free competition in the post-pandemic digital era The impact on SMEs https://repositorio.cepal.org › S2100019_en

[201] *Google LLC and Alphabet Inc. v. European Commission* (Case T-612/17), case pending

[202] ACCC (2016) *Expedia and Booking.com agree to reinvigorate price competition by amending contracts with Australian hotels*, Media Release - 2 September.

[203] PCC (2020) *Facebook post* https://www.facebook.com/competitionph/posts/3420606798003815 (accessed 25 August 2020).

[204] For a more detailed discussion of these, see Doner, Richard F, & Schneider, Ben Ross (2000) "Business Associations and Economic Development: Why Some Associations Contribute More Than Others" *Business and Politics*, Vol. 2 No. 3, pp. 261-288.

[205] A more detailed explanation of these types can be found in Schaper, M. (2020) "Advocacy in a Time of Change: Business Associations and the Pakatan Harapan Government in Malaysia, 2018–20" *Trends in Southeast Asia*, Issue 9 (TRS 9/20), Singapore: Institute of South East Asian Studies-Yusof Ishak Institute.

[206] Schaper, M. (2020) "Advocacy in a Time of Change: Business Associations and the Pakatan Harapan Government in Malaysia, 2018–20" *Trends in Southeast Asia*, Issue 9 (TRS 9/20), Singapore: Institute of South East Asian Studies-Yusof Ishak Institute.

[207] United Nations Economic Commission for Africa (2020) *Reactions and Outlook To COVID-19 in Africa: African Business Survey Results*, July [online] https://www.uneca.org/sites/default/files/PublicationFiles/COVID-19_africa_impact_survey_july_2020-en-final.pdf (accessed 13 October 2020).

[208] ECLAC (2020) *The Contribution of Business Associations to the Development of Productive Policies: Elements for the Development of an Analytical Framework*, February, [online] https://www.cepal.org/es/publicaciones/45203-la-contribucion-asociaciones-empresariales-al-desarrollo-politicas-productivas (accessed 13 October 2020).

[209] International Labor Organization (2019) *Small Matters: Global Evidence On The Contribution To Employment By The Self-Employed, Micro-Enterprises and SMEs*, Geneva: ILO, p.2.

[210] Grecia-de Vera, G. & Burgess, R. (2018) "The Philippine Competition Act and the Small Business Sector Framework for Development" *Philippine Law Journal*, Vol. 96, pp. 566-568.

[211] Schaper, M. (2020) "COVID Doesn't Just Take Lives. It Also Takes Livelihoods" ISEAS Commentaries, No. 2020/34 https://www.iseas.edu.sg/media/commentaries/COVID-doesnt-just-take-lives-it-also-takes-livelihoods/(accessed 25 August 2020).

[212] ILO (2020) *The Impact Of The COVID On The Informal Economy in Africa And The Related Policy Responses*, April, ILO Brief, 14 April, Geneva: International Labor Organization. https://www.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/documents/briefingnote/wcms_741864.pdf (accessed 25 August 2020).

[213] Competition & Consumer Commission of Singapore (2020) *Collaborations Between Competitors in Response To the COVID Pandemic* https://www.cccs.gov.sg/-/media/custom/ccs/files/legislation/ccs-guidelines/COVID19-business-collab-guidance-note-20-jul-20/cccs-guidance-note-on-the-collaborations-in-response-to-the-COVID-20-july-2020.pdf?la=en&hash=95EB090C890AB8604F651B3A65918BF157C15887 (accessed 25 August 2020).

[214] In El Salvador, for example, the law regarding acquisitions and contracts of Public Administration (LACAP - *Ley de Adquisiciones y Contrataciones de la Administración Pública*) in its article 39-B expressly allows MSMEs to associate and organize themselves to submit joint bids in public procurement and contracting procedures, according to the economic activity they carry out.

[215] Competition authorities can make recommendations or issue guidelines to ensure that public money is used efficiently and that zombie (inefficient) companies do not remain in the market artificially, thanks to public support.

[216] Quoted earlier (UNCTAD/DTL/STICT/2020/13), available at https://unctad.org/system/files/official-document/dtlstict2020d13_en_0.pdf.

[217] Major accelerator in bringing SMEs to digital market will be the investment carried out by the government in ICT and legislative reform to keep the digital infrastructure open and accessible for each market player. Virtual marketing and marketplaces allow small businesses to overcome many of the difficulties in accessing markets that they have faced in the past. An important tool in the COVID-19 and post-COVID world will be the capacity of MSMEs to operate in the online marketplace. To do this, they need necessary skills and knowledge, which many currently lack. Support should be given to provide simple, quick training to MSME staff and owner-operators UNCTAD (2020) The International Day of Micro, Small and Medium Enterprises - https://unctad.org/en/pages/SGStatementDetails.aspx?OriginalVersionID=262 (accessed on 25 June 2020).

[218] UNCTAD (2020) COVID-19 and E-commerce: Impact on Businesses and Policy Responses 2020, United Nations Conference on Trade and Development.

[219] ILO (2017) Enterprise Formalization https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_seed/documents/publication/wcms_544828.pdf

Layout and Printing at United Nations, Geneva – 2119037 **(E)** – January 2022 – 232 – **UNCTAD/DITC/CLP/2021/3**